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LEGISLATIVE HISTORY
Public Law 90-616
S. 4120

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INDEX AND SUMMARY OF S. 4120

June	18, 1968	Rep. Udall introduced H. R. 17954 which was referred to House Post Office and Civil Service Committee. Print of bill as introduced.
Sept.	4, 1968	House committee reported H. R. 17954 with amendments. House Report 1863. Print of bill and report.
Sept.	16, 1968	House passed over H. R. 17954.
Oct.	2, 1968	Senate committee reported S. 4120, an original bill. Senate Report 1607. Print of bill and report.
Oct.	4, 1968	Senate passed S. 4120 as reported.
Oct.	8, 1968	S. 4120 was referred to House Post Office and Civil Service Committee. Print of bill as referred.
Oct.	11, 1968	House passed S. 4120 without amendment.
Oct.	21, 1968	Approved: Public Law 90-616.

DIGEST OF PUBLIC LAW 90-616

WAIVER OF U. S. CLAIMS FOR FEDERAL EMPLOYEES' OVERPAYMENT

Authorizes the head of an agency and the Comptroller General to waive payment of claims not over \$500 by the U. S. against employees who have erroneously overpaid.

90TH CONGRESS
2D SESSION

H. R. 17954

IN THE HOUSE OF REPRESENTATIVES

JUNE 18, 1968

Mr. UDALL introduced the following bill; which was referred to the Committee on Post Office and Civil Service

A BILL

To correct certain inequities and relieve certain liabilities arising out of overpayments of compensation to Government employees as a result of administrative error in the application of certain provisions of the Classification Act of 1949, the Federal Employees Salary Act of 1964, and other provisions of law, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That (a) all overpayments of compensation made, prior to
4 the date of enactment of this Act, to any employee in the
5 executive branch of the Federal Government, as a result of
6 administrative error or misinterpretation and without fault
7 on the part of the employee concerned, are hereby validated
8 in the following categories of cases:

1 (1) Overpayments of compensation resulting from the
2 improper adjustment from a saved rate of compensation to
3 a scheduled rate of compensation pursuant to section 507
4 of the Classification Act of 1949, as amended, or section
5 5337 of title 5, United States Code.

6 (2) Overpayments of compensation resulting from the
7 failure to construe a constructive step increase received by the
8 employee concerned during his period of entitlement to re-
9 tention of compensation under section 507 of the Classifica-
10 tion Act of 1949, as amended, or under section 5337 of
11 title 5, United States Code, as an "equivalent increase in
12 compensation" within the meaning of section 701 of such
13 Act, as amended, or section 5335 of title 5, United States
14 Code, so as to require a new waiting period to commence for
15 the next step increase.

16 (3) Overpayments of compensation resulting from the
17 erroneous application of section 102 (b) (6) of the Federal
18 Employees Salary Act of 1964 (78 Stat. 401; Public Law
19 88-426; 5 U.S.C. 1113, note) to any employee who was
20 demoted at any time during the period beginning on the first
21 day of the first pay period which began on or after July 1,
22 1964, and ending on the date of enactment of such Act.

23 (4) Overpayments of compensation resulting from the
24 failure to effect a reduction in rate of compensation following
25 the enactment of the Federal Employees Salary Act of 1964

1 in the case of any employee who was promoted from a posi-
2 tion subject to section 504 of the Federal Salary Reform Act
3 of 1962, as amended (5 U.S.C. 1173), to another position
4 subject to such section, at any time during the period begin-
5 ning on the first day of the first pay period which began on
6 or after July 1, 1964, and ending on the date of enactment
7 of the Federal Employees Salary Act of 1964.

8 (5) Overpayments of compensation resulting from the
9 failure to effect a reduction in rate of compensation following
10 the enactment of the Federal Employees Salary Act of 1964
11 in the case of any employee who was transferred, either with
12 or without his position, from a prevailing rate schedule to
13 the General Schedule of the Classification Act of 1949, as
14 amended, at any time during the period beginning on the
15 first day of the first pay period which began on or after July
16 1, 1964, and ending on the date of enactment of the Federal
17 Employees Salary Act of 1964.

18 (6) Overpayments of compensation resulting from the
19 failure to effect a reduction in rate of compensation following
20 the enactment of the Federal Employees Salary Act of
21 1964 in the case of any employee in the postal field service
22 who was promoted from a position in one level of the Postal
23 Field Service Schedule to a position in a higher level of such
24 schedule at any time during the period beginning on the
25 first day of the first pay period which began on or after

1 July 1, 1964, and ending on the date of enactment of such
2 Act.

3 (b) Any employee or former employee within the
4 purview of any provision of subsection (a) of this section
5 who has repaid to the United States all or part of the
6 amounts the payment of which is validated by such subsec-
7 tion (a) shall be entitled to have refunded to him, by his
8 employing agency at the time of the overpayment of com-
9 pensation, the amount which he has repaid to the United
10 States, if he makes application for such refund to such em-
11 ploying agency within two years following the date of enact-
12 ment of this Act. Such employing agency is authorized and
13 directed to make such refund in accordance with this Act.

14 (c) The validation, in accordance with subsection (a)
15 of this section, of overpayments of compensation made prior
16 to the date of enactment of this Act shall not be held or con-
17 sidered to validate any overpayment of compensation made
18 on or after such date of enactment.

19 (d) In the audit and settlement of the accounts of any
20 certifying or disbursing officer of the United States, appro-
21 priate credit shall be given in accordance with the validation
22 by this Act of overpayments of compensation.

A BILL

To correct certain inequities and relieve certain liabilities arising out of overpayments of compensation to Government employees as a result of administrative error in the application of certain provisions of the Classification Act of 1949, the Federal Employees Salary Act of 1964, and other provisions of law, and for other purposes.

By Mr. UDALL

JUNE 18, 1968

Referred to the Committee on Post Office and Civil Service

10. RECLAMATION. Received the conference report on S. 1004, to authorize the construction, operation, and maintenance of the central Arizona project, Arizona. Mex. (H. Rept. 1861). pp. H8231-9
The Interior and Insular Affairs Committee reported S. 224, to provide for the rehabilitation of the Eklutna project, Alaska (H. Rept. 1852). p. H8301
11. WATER RESOURCES. The Interior and Insular Affairs Committee reported with amendment S. 3058, to revise the authorization of appropriations for administering the provisions of the Water Resources Planning Act (H. Rept. 1858).
Received the conference report on S. 20, to provide for a comprehensive review of national water resource problems and programs (H. Rept. 1862). p. H8239
12. FARM PROGRAM. Rep. Findley objected to the request for a conference on H. R. 17126, the farm bill (p. H8257), and stated several reasons for his objection (pp. H8296-7).
13. REPORTS. Received from the Government Operations Committee the following reports: "U. S. Aid Operations in Latin America Under the Alliance for Progress" (H. Rept. 1849). "Criteria for Support Service Cost Comparisons" (H. Rept. 1850). "Problem of the Poor: Supermarket Operations in Low-income Areas and the Federal Response" (H. Rept. 1851). p. H8301
14. PERSONNEL. The Post Office and Civil Service Committee reported with amendment H. R. 17954, to correct certain inequities and relieve certain liabilities arising out of overpayments of compensation to Government employees as a result of administrative error in the application of certain provisions of the Classification Act of 1949, the Federal Employees Salary Act of 1964, and other provisions of law (H. Rept. 1863). p. H8302
15. MANPOWER. Began debate on H. R. 15045, to extend certain expiring provisions under the Manpower Development and Training Act of 1962. pp. H8241-2, H8246-57
16. APPROPRIATIONS. Rep. Mahon summarized the unfinished appropriations business and stated that when the foreign assistance and the closing supplemental bills are reported the House will have reduced budgeted expenditures for 1969 by a figure approaching \$4 billion. pp. H8239-40
17. APPLES. Rep. Horton announced preparations for the annual apple harvest festival next week in Wayne County, New York. pp. H8297-8

EXTENSION OF REMARKS

18. U. S.-MEXICAN AFFAIRS. Rep. Roybal commended and inserted the first annual report of the Federal Inter-Agency Committee on Mexican American Affairs. pp. E7629-33

19. FARM PRICES. Rep. Zwach stated that the "monthly USDA report on prices received by farmers in relation to farm costs reveal the deary news that the farm parity level remained frozen at near depression levels of 73 percent." p. E7638
20. FARM PROGRAM. Rep. Steed objected to a \$20,000 payment limitation on the farm bill. p. E7639
21. RECREATION. Rep. O'Hara, Mich., requested immediate establishment of Sleeping Bear Dunes Recreation Area before it becomes "another of America's lost conservation opportunities." pp. E7643-4
22. PESTICIDES. Rep. Dingell stated that the growing use of pesticides and herbicides poses a greater threat to fish and wildlife resources, and inserted an article, "DDT Moves with Runoff Waters." p. E7654
23. REPORTS. Several Representatives reported on recent activities of the Congress. pp. E7654-5, E7655-6, E7670-1, E7672
24. WATER CONSERVATION. Rep. Ullman inserted an article, "A Farmer's View--Water Need Call for Action." pp. E7660-1
Rep. Fuqua commended and inserted Hollis Williams', SCS, speech "as an outstanding speech on the organization and responsibilities of soil and water conservation districts." pp. E7663-4
25. MANPOWER. Rep. Scherle suggested that the manpower program needs a review and expressed his objection to the "administration of the program, and the lack of control and monitoring of expenditures." pp. E7665-6

BILLS INTRODUCED

26. FARM CREDIT. S. 3986 by Sen. Ellender and H. R. 19418 by Rep. Poage, to amend the Federal Farm Loan Act and the Farm Credit Act of 1933, as amended, to expedite retirement of Government capital from Federal intermediate credit banks, production credit associations and banks for cooperatives; to S. Agriculture and Forestry and H. Agriculture Committees.
27. PERSONNEL. H. R. 19411 by Rep. Baring, to provide for improved employee-management relations in the Federal service; to Post Office and Civil Service Committee.
H. R. 19421 by Rep. Fulton, Pa., to amend the Federal employees and retired Federal employees health benefits programs to insure that retired Federal employees do not have to pay twice for benefits which are provided both under such programs and under the health insurance program for the aged under the Social Security Act; to Post Office and Civil Service Committee.
28. FISHERIES. H. R. 19414 by Rep. Monagan, to extend the provisions of the Commerical Fisheries Research and Development Act of 1964; to the Merchant Marine and Fisheries Committee.

WAIVER OF CLAIMS FOR OVERPAYMENT OF PAY

SEPTEMBER 4, 1968.—Committed to the Committee of the Whole House on the State of the Union and ordered to printed

Mr. UDALL, from the Committee on Post Office and Civil Service, submitted the following

REPORT

[To accompany H.R. 17954]

The Committee on Post Office and Civil Service, to whom was referred the bill (H.R. 17954) to correct certain inequities and relieve certain liabilities arising out of overpayments of compensation to Government employees as a result of administrative error in the application of certain provisions of the Classification Act of 1949, the Federal Employees Salary Act of 1964, and other provisions of law, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

AMENDMENTS

The amendments are as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That (a) subchapter VIII of chapter 55 of title 5, United States Code, is amended by adding at the end thereof the following new section:

“§ 5584. Claims for overpayment of pay

“(a) A claim of the United States against a person arising out of an erroneous payment of pay, on or after July 1, 1960, to an employee of an Executive agency the collection of which would be against equity and good conscience and not in the best interests of the United States, may be waived in whole or in part by—

“(1) the Comptroller General of the United States; or

“(2) the head of the Executive agency when—

“(A) the claim is in an amount aggregating not more than \$500;

“(B) the claim is not the subject of an exception made by the Comptroller General in the account of any accountable official; and

“(C) the waiver is made in accordance with standards which the Comptroller General shall prescribe.

“(b) The Comptroller General or the head of the Executive Agency, as the case may be, may not exercise his authority under this section to waive any claim—

“(1) if, in his opinion, there exists, in connection with the claim, an indication of fraud, misrepresentation, fault, or lack of good faith on the part of the employee or any other person having an interest in obtaining a waiver of the claim; or

“(2) after the expiration of 3 years immediately following the date on which the erroneous payment of pay was discovered or 3 years immediately following the effective date of this section, whichever is later.

“(c) A person who has repaid to the United States all or part of the amount of a claim, with respect to which a waiver is granted under this section, is entitled, to the extent of the waiver, to refund, by the employing agency at the time of the erroneous payment, of the amount repaid to the United States, if he applies to that employing agency for that refund within 2 years following the effective date of the waiver. The employing agency shall pay that refund in accordance with this section.

“(d) In the audit and settlement of the accounts of any accountable official, full credit shall be given for any amounts with respect to which collection by the United States is waived under this section.

“(e) An erroneous payment the collection of which is waived under this section is deemed a valid payment for all purposes.

“(f) This section does not affect any authority under any other statute to litigate, settle, compromise, or waive any claim of the United States.”.

(b) The table of contents of subchapter VIII of chapter 55 of title 5, United States Code, is amended by inserting the following new item immediately below item 5583:

“5584. Claims for overpayment of pay.”.

Amend the title so as to read:

To amend title 5, United States Code, to authorize the waiver, in certain cases, of claims of the United States arising out of erroneous payments of pay to employees of Executive agencies and for other purposes.

EXPLANATION OF AMENDMENTS

There are two amendments; an amendment to the text, which strikes out all after the enacting clause and inserts a new text, and an amendment to the title.

The amendment to the text provides general authority for the Comptroller General or the head of an executive agency to waive, in certain cases, claims of the United States arising out of erroneous payments of pay to employees of executive agencies. The introduced bill would have waived claims of the United States arising out of erroneous payments of pay in six specific categories or situations.

The explanation of the amendment to the text is included in this report under “Explanation of the bill.”

The amendment of the title is a technical amendment to conform the title to the amendment of the text.

PURPOSE

It is the purpose of this legislation to authorize a systematic procedure for the Comptroller General or the head of an executive agency to waive, in certain cases, claims of the United States arising out of erroneous payments of pay to employees of executive agencies.

STATEMENT

The bill, as reported with committee amendments, is based on recommendations made by the administration and the General Accounting Office in their reports on the bill as introduced, and on similar recommendations made during the hearings.

The reported bill proposes general legislation establishing a systematic procedure for the Comptroller General or the head of an executive agency to waive claims of the United States arising out of erroneous payments of pay to an employee of an executive agency. The authority to waive is discretionary with the head of the agency or the Comptroller General, and may not be exercised if there exists in connection with the overpayment an indication of fraud, misrepresentation, fault, or lack of good faith on the part of the employee or any other person having an interest in obtaining a waiver of the claim.

The bill as amended will cover, as appropriate, not only the claims covered by the bill as introduced but also, subject to the standards set forth in the committee amendment, all claims due to erroneous payments of pay made on or after July 1, 1960. However, the authority to waive must be exercised within 3 years following the date on which the overpayment is discovered or 3 years from the effective date of the legislation, whichever is later.

Introduced bill.—The bill, as introduced, would have waived claims of the United States arising out of erroneous payments of pay in six specific categories or situations.

Two of the six categories relate to overpayments of pay incident to downgradings and saved rates of pay. These categories involve misinterpretation of the saved pay provisions under section 507 of the Classification Act of 1949, as amended (5 U.S.C. 1107, 1964 ed.), or under the similar provisions of current law (5 U.S.C. 5337).

Three categories relate to overpayments involving misinterpretation of the conversion provisions of section 102 of the Federal Employees Salary Act of 1964, Public Law 88-426, enacted August 14, 1964, and retroactively effective to the first pay period which began on or after July 1, 1964.

One of the categories relates to the improper application of the postal pay provisions of the 1964 act, in the case of postal field service employees who receive promotions during the period covered by the retroactive pay increases granted by this statute.

There are set forth below descriptions of the overpayments in these categories and are typical of the overpayment cases that are the subject of this legislation.

Paragraphs (1) and (2) of H.R. 17954, as introduced, (1) improper adjustment from saved rate of compensation to a scheduled rate; (2) improper application of a constructive within-grade step increase for an employee during a period of saved pay.

An employee who is reduced in grade from a grade of the general schedule is entitled to continue receiving his same rate of basic pay, plus any statutory increases in that rate, for a period of 2 years from the effective date of the reduction in grade (5 U.S.C. 1107, 1964 edition and 5 U.S.C. 5337).

The Comptroller General has held (B-146305, August 22, 1961) that the agency must select the appropriate salary step of the lower grade and place the employee in that grade and step at the time of the downgrading, without regard to the fact that the employee will continue to receive a higher saved rate during a 2-year period. Also, the agency thereafter must process any within-grade increase on the basis of the time in such grade and step in which he is placed, or should have been placed, at the time of the downgrading.

The agency may not select a different step during or at the end of the 2-year period, even though a statute enacted during such 2-year period, such as the Federal Salary Reform Act of 1962, Public Law 87-793, may have changed the rates of pay or the number of steps within a grade.

An illustration of an improper adjustment which will be corrected by paragraphs (1) and (2) of H.R. 17954 is the case of an employee at the U.S. Missile Support Command, Redstone Arsenal, Ala., Comptroller General decision of October 12, 1965, B-151493.

April 9, 1961, downgraded from GS-13, longevity b, \$10,985, to GS-12 (step not selected).

Saved rate for 2 years, \$10,985, increased effective October 21, 1962, to \$11,680 by Public Law 87-793.

April 8, 1963, end of 2-year period, agency adjusted employee to GS-12, step 8, \$11,680, the rate of his saved pay.

September 22, 1963, within-grade increase to step 9, on basis of service credit from September 25, 1960, the date the employee received his last within-grade increase in GS-13.

Corrected action: (1) The correct step that should have been selected on April 9, 1961, at the time of the downgrading was step (f), the maximum step of GS-12 at that time; (2) the service period for within-grade increase should run from October 21, 1962, the date the employee should have been given a constructive within-grade increase in GS-12, under the provisions of section 602(b) (10), Public Law 87-793, even though the employee was receiving a higher saved rate at that time.

Total overpayment during the period April 8, 1963, to May 29, 1965, was \$1,294.

The Committee has been advised of at least 13 similar cases.

Paragraph (3) of H.R. 17954, as introduced, demotions during July 1-August 14, 1964, and overpayments resulting from the erroneous application of section 102(b)(6) of the Federal Employees Salary Act of 1964, Public Law 88-426.

The Federal Employees Salary Act of 1964, Public Law 88-426, approved August 14, 1964, became effective retroactively to the first pay period which began on or after July 1, 1964. In the case of employees subject to the general schedule who were promoted from one grade to another during the retroactive period, section 102(b)(6) permitted the employee to continue receiving the rate of compensation for the step of the appropriate grade which corresponded numerically to the step of the grade which was in effect at the time of the promotion. However, there was no similar authorization contained in the conversion rules of the 1964 act, applying to employees who were demoted.

To illustrate, there were eight employees at the Philadelphia Payment Center of the Social Security Administration who were demoted during the retroactive period, July 1-August 14, 1964, and who were paid the new increased rate for the step to which they had been demoted, under the erroneous assumption that the provisions of section 102(b)(6) applied to cases of demotion as well as to cases of promotion. (See B-158170, Jan. 11, 1966.)

The overpayments for these employees ranged from \$65 to \$80 each.

Paragraph (4) of H.R. 17954 as introduced, an employee serving in a special rate category under section 504 of the Federal Salary Reform Act of 1962 (5 U.S.C. 1173) promoted during the period July 1–August 14, 1964.

An employee of the National Aeronautics and Space Administration, who was receiving a special rate under section 504 of the Federal Salary Reform Act of 1962, Public Law 87–793, was promoted during the period July 1–August 14, 1964, the retroactive period of the Federal Employees Salary Act of 1964, and placed in the higher grade in a rate above the initial rate of the grade.

The Comptroller General held (B–155395, Feb. 17, 1965) that the employee's rates would have to be recomputed on the basis of the new rates prescribed by Public Law 88–426, which, because of the retroactive provision, were the only rates in effect on and after July 1, 1964. This is the same rule that was applied in connection with the case explained under paragraph (5).

Paragraph (5) of H.R. 17954 as introduced, wage board employee promoted to general schedule during period July 1–August 14, 1964.

It was the general policy that a wage board employee promoted to a position under the general schedule would receive a rate of compensation under the general schedule nearest to his wage board rate which would not result in a decrease in compensation.

To illustrate, a Federal Aviation Administration employee was promoted on August 2, 1964, from the wage board rate of \$3.81 per hour, or the annual equivalent of \$7,924, to GS–9, step 5, at \$7,950 per annum.

The Federal Employees Salary Act of 1964, Public Law 88–426, approved August 14, 1964, was retroactively effective to July 5, 1964, the first day of the first pay period which began after July 1, 1964.

The Comptroller General stated in his letter of December 13, 1965, B–156058, that the employee's promotion must be recomputed from GS–9, step 5, on the basis of the new general schedule rate, as of the date of his promotion, August 2, 1964, to the nearest rate that would not result in a decrease in the equivalent rate of \$7,924, or GS–9, step 4, \$7,955. The employee was overpaid at the step 5 rate, to August 14, 1965, in the amount of approximately \$270. There are two other similar cases in the committee records, but the amounts of the overpayments are not shown.

The Comptroller General's ruling in this and similar cases is based on the fact that the schedule of rates to which the employee was first adjusted during the retroactive period was abolished as of the beginning of the retroactive period, and the conversion then had to be recomputed under the conversion rules of the particular Pay Act. This rule of the Comptroller General was first set forth in a decision in 1951 (31 Comp. Gen. 166, 169).

As a consequence of the 1951 decision, the Congress, in a number of subsequent Pay Acts, which have retroactive effect, made special provisions for determining the step in grade of the general schedule employees who were initially appointed to a step above the minimum of the grade during the retroactive period. The 1964 Pay Act included such a provision in section 102(b)(6) for general schedule employees who were promoted during the retroactive period, but the act did not include a similar provision for those employees moving during the retroactive period from wage board positions to positions under the general schedule.

Paragraph (6) of H.R. 17954 as introduced, promotion of postal field service employees during the period July 1–August 14, 1964.

The Federal Employees Salary Act of 1964, Public Law 88–426, approved August 14, 1964, became effective retroactively to the first pay period which began on or after July 1, 1964.

In the case of postal field service employees, section 116 required each employee to be assigned to the same numerical step to which he had been assigned immediately prior to the effective date in July 1964. Subsequent personnel actions during the retroactive period, July 1–August 14, 1964, such as promotions, were required to be reprocessed and recomputed.

To illustrate, an employee who was promoted on August 1, 1964, from PFS–17, step 5, \$16,980, to PFS–19, was required, under 39 U.S.C. 3559, to be granted the equivalent of a two-step increase. Using the pay rates in effect at the time of the promotion on August 1, 1964, the employee was placed in PFS–19, step 4, \$18,250. The step 4 rate was increased to \$21,370 by the 1964 act.

When the retroactive recomputation of the promotion was made on the basis of the increased pay rates, the two-step increase requirement was met by placing the employee in PFS–19, step 1, \$19,345. However, the employee continued to be paid at the increased rate for step 4 (\$21,370) until the promotion action was corrected.

Committee amendment.—The Bureau of the Budget, in its official report on the introduced bill, advised that the problem of overpayments made as a result of administrative errors in applying complicated provisions of law is a reoccurring problem and over the years, has resulted in a large number of private relief bills.

The committee is aware that several private relief bills have been enacted during the 90th Congress, relieving specific employees from refunding overpayments of pay which arose under situations that are identical to some of the cases that would be covered by the bill as introduced—for example, Private Laws 90–209, 210, 249, 275, and 286.

The Bureau recommended enactment of H.R. 17954 but advised that they preferred that the bill be implemented by general legislation, both prospectively and retroactively effective, authorizing relief of overpayment cases, provided the proper safeguards are included.

The committee has adopted the recommendation of the administration. The bill, as amended by the committee, will provide such general authority, together with the proper safeguards recommended by the administration. However, the authority is limited to overpayment cases involving erroneous overpayments of pay.

General legislation, as recommended in the committee bill, will avoid the many problems that arise upon enactment of a private relief bill relieving one or several of the employees similarly situated, but not affording similar relief to all employees who are affected by the same type of erroneous overpayment of pay.

The committee proposal contains general waiver authority which is similar to several provisions of existing law.

The head of an agency, under regulations of the President, may waive a right of recovery of advance payments of overseas differentials and allowances authorized by subchapter III of chapter 59, title 5, United States Code, if it is shown that the recovery would be against

equity and good conscience or against the public interest (5 U.S.C. 5922(b)).

The Secretary of a military department may remit or cancel any part of an enlisted man's indebtedness to the United States remaining unpaid before or at the time of the member's honorable discharge (10 U.S.C. 4837(d)).

The Secretary of a military department may waive the recovery of money erroneously paid under the Dependents Assistance Act of 1950, whenever he finds that such recovery would be against equity and good conscience (50 U.S.C. app. 2211).

The head of an agency has general authority (31 U.S.C. 952) to compromise certain claims of the United States against an employee, or to cause collection action on any such claim "to be terminated or suspended where it appears that no person liable on the claim has the present or prospective financial ability to pay any significant sum thereon, or that the cost of collecting the claim is likely to exceed the amount of recovery."

The regulations issued by the Comptroller General under this authority are set forth below.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., October 19, 1966.

B-117604.

To the heads of departments, independent establishments, and others concerned.

Subject: Procedures Relating to the Federal Claims Collection Act of 1966.

Public Law 89-508, the "Federal Claims Collection Act of 1966," was approved by the President on July 19, 1966.

The law requires the head of an agency to attempt collection of claims of the United States for money or property. In addition, an agency head is authorized to compromise any claim, or to terminate or suspend collection action, where the principal amount of the claim is not in excess of \$20,000 and it has not been referred to another agency for collection except where there is an indication of fraud, misrepresentation, the presentation of a false claim, or a claim involving a violation of the antitrust laws. Collection action may be terminated or suspended only when it appears that no person liable on the claim has the financial ability, present or prospective, to pay any significant amount on the claim, or when the cost of collection is likely to exceed the amount of recovery.

The Comptroller General is given authority to compromise or to terminate or suspend collection action with respect to any claim referred to the General Accounting Office, and is given exclusive authority to compromise a claim arising from an exception made by the General Accounting Office in the account of an accountable officer.

Collection action, including compromise and termination or suspension, must be in accordance with such standards as may be promulgated jointly by the Attorney General and the Comptroller General. These standards have been issued and appear in the Federal Register of October 15, 1966, pages 13381-13385.

Attention is invited to the responsibility of the head of each agency to issue regulations in conformity with the standards prescribed

jointly by the Attorney General and the Comptroller General under this act. Since the act becomes effective on January 15, 1967, prompt action should be taken by the head of each agency to promulgate the regulations for his agency.

Section 3 of the act defines agency to mean any department, office, commission, board, service, Government corporation, instrumentality, or other establishment or body in either the executive or legislative branch of the Federal Government.

ELMER B. STAATS,
Comptroller General of the United States.

None of the provisions of existing law provide an adequate or satisfactory means of dealing with the erroneous overpayments of pay to employees of executive agencies.

The general authority under 31 United States Code 952 is not a waiver authority, and may be utilized only when there is a lack of any present or prospective financial ability to pay.

Under existing law there is no authority in an executive agency (including the General Accounting Office) to waive an erroneous payment of compensation even though made through administrative error and received by the employee in good faith. Existing law provides for the withholding of current pay to liquidate such indebtedness (5 U.S.C. 5513 and 5514). The balance of any indebtedness owing at the time of an employee's separation may be liquidated by application of amounts otherwise due the employee such as the lump-sum leave payment, final salary, travel reimbursement, or otherwise. Currently payable retirement benefits also could be used to liquidate the indebtedness.

The fact that the erroneous payment was made without fault on his part, or the fact that the employee had every reason to believe that the payment was proper, is immaterial.

Most of the erroneous payments in these cases are discovered by audits, either by the agency or by the General Accounting Office, conducted 2 or 3 years after the payments have been accomplished—frequently, even after the employee has left the employment of the United States or has died.

The committee believes that the reported bill embodies a practical means to deal with the problem. It will relieve the Congress of the necessity of considering the numerous private relief bills that are introduced each year to relieve employees or their heirs from refunding amounts arising because of overpayments of pay.

The proposal includes all of the safeguards recommended by the General Accounting Office and the Bureau of the Budget as necessary in this type of proposal. The authority to waive is discretionary, not mandatory. The usual standards are used, in that collection of the claim must be against equity and good conscience, and not in the best interest of the United States. Where the General Accounting Office has made an exception to the payment in the account of an accountable official, only the Comptroller General can waive the claim. This limitation will preserve the audit authority of that agency. The authority may not be used to waive a claim if there is any indication of fraud, misrepresentation, fault, or lack of good faith on the part of the employee.

EXPLANATION OF THE BILL

The first section of the bill, as reported by the committee, will amend subchapter VIII of chapter 55 of title 5, United States Code, by adding a new section 5584.

Subsection (a) of the new section 5584 authorizes a claim of the United States against a person, arising out of erroneous payment of pay, on or after July 1, 1960, to an employee of an executive agency, to be waived in whole or in part in certain cases. The claim may be against the employee or his survivor.

The collection of the claim must be against equity and good conscience and not in the best interests of the United States. The waiver may be made by the Comptroller General of the United States, or by the head of the executive agency in certain cases. The head of an executive agency may waive the claim only when the aggregate amount of the claim is not more than \$500, and the claim is not the subject of an exception made by the Comptroller General in the account of an accountable official, and the waiver is made in accordance with standards which the Comptroller General shall prescribe.

The term "pay" as used in this section is intended to have its broadest meaning, as is intended generally when the word is used in title 5, United States Code. As explained in Senate Report No. 1380, 89th Congress, accompanying H.R. 10104, which enacted title 5 as positive law, the word "pay" includes all terms heretofore in use representing salary, wages, pay, compensation, emoluments, and remuneration for services.

Under the amendment, the Comptroller General is authorized to prescribe standards under which agencies may grant waivers of erroneous payments of pay aggregating not more than \$500. It is contemplated that such standards would preclude an executive agency from exercising waiver authority with respect to any claim that it has transmitted to the General Accounting Office or to the Attorney General for collection action. If such a standard is issued, then, for all practical purposes, the bill would have no effect upon the action of the Attorney General in the filing or prosecution of suits or on the court's jurisdiction to consider actions within the 6-year time limitation prescribed in 28 U.S.C. 2415(d).

Subsection (b) limits the authority to waive by providing that the authority may not be used if there exists an indication of fraud, misrepresentation, fault, or lack of good faith on the part of the employee or any other person having an interest in obtaining a waiver of the claim. Also, the waiver authority may not be exercised after the expiration of 3 years immediately following the date on which the erroneous payment of pay was discovered or 3 years immediately following the effective date of this section, whichever is later.

Subsection (c) of the new section 5584 authorizes the employing agency, at the time of the erroneous payment, to refund any amounts to a person who has repaid to the United States all or part of the amount of a claim which may have been waived under this section, provided an application is made for the refund within 2 years following the effective date of the waiver.

Subsection (d) of the new section 5584 provides that full credit shall be given in the accounts of any accountable official for any

amounts with respect to which collection by the United States is waived under this section.

Subsection (e) of the new section 5584 provides that an erroneous payment, the collection of which has been waived under this section, is deemed valid payment for all purposes. This is intended to apply, but is not limited, to such matters as retirement benefits and life insurance benefits.

Subsection (f) is a savings provision to make it clear that the provisions of the new section 5584 are not intended to affect any authority under any other statute to liquidate, settle, compromise, or waive any claim of the United States.

Subsection (b) of the bill makes the necessary technical changes in the table of contents of subchapter VIII of chapter 55, title 5, United States Code, to conform with the addition of the new section 5584.

COST

This legislation authorizes the waiving of the collection of a claim of the United States, and will involve the paying out of additional money only when refunds are involved.

The committee believes that the reduction in the amounts collected on the claims that may be waived and the refunds will be offset in a major part by a reduction in the administrative expense necessary to process the claims for collection or for consideration under private relief legislation.

AGENCY REPORTS

The reports of the administration and the General Accounting Office on this legislation are set forth below.

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., July 15, 1968.

HON. THADDEUS J. DULSKI,
*Chairman, Committee on Post Office and Civil Service,
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: I refer to the committee's request for the views of the Bureau of the Budget on H.R. 17954, to correct certain inequities and relieve certain liabilities arising out of overpayments of compensation to Government employees as a result of administrative error in the application of certain provisions of the Classification Act of 1949, the Federal Employees Salary Act of 1964, and other provisions of law, and for other purposes.

H.R. 17954 would apply to overpayments to Federal employees made prior to enactment of the bill. It would authorize waiver of collection in specific classes of overpayment cases. It would also authorize refund to employees of amounts already collected against those overpayments.

We note that the bill applies to overpayments as a result of administrative error and without fault on the part of the employee. However, it does not explicitly require "good faith" on the part of the employee, a test which we have normally applied in overpayment cases. Although the term in the bill "without fault" could be construed to include good faith, it could also be interpreted to apply only to the respon-

sibility for making the error. We think that an employee who knowingly accepted erroneous payments should not be relieved of liability. Therefore, we suggest that the committee consider amending the bill by specifically requiring that relief in overpayments cases be contingent upon good faith.

The problem of overpayments made as a result of agencies' errors in applying complicated provisions of law, is a recurring one, and, over the years, has necessitated a large number of private relief bills. Accordingly, the Bureau of the Budget believes that general legislation both prospectively and retrospectively authorizing relief of overpayment cases is desirable. If, however, general legislation is not feasible at this time, the Bureau of the Budget would recommend enactment of H.R. 17954.

Sincerely yours,

WILFRED H. ROMMEL,
Assistant Director for Legislative Reference.

U.S. CIVIL SERVICE COMMISSION,
Washington, D.C., July 12, 1968.

HON. THADDEUS J. DULSKI,
*Chairman, Committee on Post Office and Civil Service,
House of Representatives.*

DEAR MR. CHAIRMAN: This is in reply to your request for the views of the Civil Service Commission on H.R. 17954, a bill to correct certain inequities and relieve certain liabilities arising out of overpayments of compensation to Government employees as a result of administrative error in the application of certain provisions of the Classification Act of 1949, the Federal Employees Salary Act of 1964, and other provisions of law, and for other purposes.

This legislation would excuse employees from having to refund to the Government certain overpayments made through no fault of the employees concerned as a result of administrative errors in interpreting or applying certain complex features of various salary statutes. It would also authorize refunds to employees who returned erroneous overpayments made under the same circumstances.

The Civil Service Commission has no objection to the enactment of this legislation, provided it is amended to include certain additional safeguards to protect the interests of the United States.

As the situation stands now, an employee must reimburse the Government for overpayments which were made through no fault of his own and which he believed were rightfully his. In many instances, the errors were not discovered until years later. The refund requirement has led to the introduction of numerous private relief bills.

Private legislation, however, does not afford a satisfactory solution to this problem. It is inequitable in that it singles out some persons for relief while others whose cases are equally meritorious but who have not had their cases brought to the attention of the Congress are still held liable. Moreover, it is a costly and time-consuming procedure for the Congress and the agencies.

H.R. 17954 would do much to take care of the problem. It would permit more uniform treatment of the claims which comprise the bulk

of overpayment cases, and it should result in a substantial reduction in the number of private relief bills.

As presently written, however, H.R. 17954 contains insufficient safeguards to protect the interests of the United States. Once a determination had been made that an error was without fault on the part of the employee, waiver of the Government's claim would be automatic. Other considerations which might have a bearing, such as the recency of the discovery of the error or whether the payment was accepted in good faith, would not be taken into account.

The Commission therefore recommends that lines 3 to 8 of page 1 of H.R. 17954 be amended to read as follows:

"That (a) all overpayments of compensation made, prior to the date of enactment of this Act, to any employee in the executive branch of the Federal Government, as a result of administrative error or misinterpretation without fault on the part of the employee concerned and received by him in good faith, are hereby validated, if in the judgment of the agency head or his designee collection would be against equity and good conscience, in the following categories of cases:"

In the long run, the best solution to the overpayment problem would be general waiver legislation providing an administrative means to settle all types of overpayment cases, prospectively as well as retrospectively. In the absence of general legislation, however, H.R. 17954 provides a reasonable stopgap.

The Bureau of the Budget advises that from the standpoint of the administration's program there is no objection to the submission of this report.

By direction of the Commission:

Sincerely yours,

(S) JOHN W. MACY, Jr.,
Chairman.

DEPARTMENT OF THE NAVY,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, D.C., July 16, 1968.

HON. THADDEUS J. DULSKI,
*Chairman, Committee on Post Office and Civil Service,
House of Representatives,
Washington, D.C.*

DEAR MR. CHAIRMAN: Your request for comment on H.R. 17954, a bill to correct certain inequities and relieve certain liabilities arising out of overpayments of compensation to Government employees as a result of administrative error in the application of certain provisions of the Classification Act of 1949, the Federal Employees Salary Act of 1964, and other provisions of law, and for other purposes, has been assigned to this Department by the Secretary of Defense for the preparation of a report thereon expressing the views of the Department of Defense.

Basically, the proposed legislation would validate overpayments of compensation to employees in the executive branch of the Federal Government in six clearly defined classes of overpayment resulting from administrative error or misinterpretation, and without fault on the part of the employee concerned, under certain provisions, of the Classification Act of 1949, the Federal Employees Salary Act of 1964, and other provisions of law.

The problem of overpayment made as a result of errors in applying complicated provisions of law is a reoccurring one, and, over the years, has necessitated a large number of private relief bills. H.R. 17954 is confined to retrospective cases involving employees who fall within the six categories. While the Department of the Navy, on behalf of the Department of Defense, does not object to such legislation, the committee may wish to consider general legislation which would cover prospective, as well as retrospective cases.

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

The Bureau of the Budget advises that, from the standpoint of the administration's program, there is no objection to the presentation of this report on H.R. 17954 for the consideration of the committee.

For the Secretary of the Navy.

Sincerely,

R. WRZESINSKI,
Captain, U.S. Navy,
Director, Legislative Division.

THE POSTMASTER GENERAL,
Washington, D.C., July 19, 1968.

HON. THADDEUS J. DULSKI,
Chairman, Committee on Post Office and Civil Service,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your request for a report on H.R. 17954, a bill to correct certain inequities and relieve certain liabilities arising out of overpayments of compensation to Government employees as a result of administrative error in the application of certain provisions of the Classification Act of 1949, the Federal Employees Salary Act of 1964, and other provisions of law, and for other purposes.

This measure would validate overpayments in compensation paid to employees of the executive branch in six categories of cases, where the overpayments resulted from administrative error or misinterpretation and without fault on the part of the employee concerned. The validation would apply only to overpayments made prior to the date of enactment of the proposed legislation. Provision is also made for refund to those employees who have repaid to the Government all or part of such overpayments received.

The Department believes that in proper and deserving cases, the Government should not collect salary overpayments. We, therefore, support the principle of legislation such as H.R. 17954.

It is noted that the present bill is confined to retroactive cases involving employees who fall within the six categories. While the Department has no objection to such legislation, the committee may wish to consider as an alternative legislation of a more substantive nature, that is, enactment of permanent legislation which would cover prospective as well as retroactive cases, and containing safeguards as to future cases in order to prevent possible misuse of such legislation.

The Bureau of the Budget has advised that there is no objection to the submission of this report to the committee from the standpoint of the administration's program.

Sincerely yours,

W. MARVIN WATSON.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., August 27, 1968.

B-152040, B-158422.

HON. THADDEUS J. DULSKI,
*Chairman, Post Office and Civil Service Committee,
 House of Representatives.*

DEAR MR. CHAIRMAN: We refer to your letter of August 8, 1968, requesting our views on an amendment adopted by the committee in reporting H.R. 17954.

Under existing law there is no authority in an executive agency (including the General Accounting Office) to waive an erroneous payment of compensation even though made through administrative error and received by the employee in good faith. Existing law provides for the withholding of current pay to liquidate such indebtedness (see 5 U.S.C. 5513 and 5514). The balance of any indebtedness owing at the time of an employee's separation may be liquidated by application of amounts otherwise due the employee such as the lump-sum leave payment, final salary, travel reimbursement or otherwise. Currently payable retirement benefits also could be used to liquidate the indebtedness. The desirability of enactment of the bill involves a matter of policy for determination by the Congress and we offer no recommendation with respect thereto.

You specifically asked for our comments concerning the use of the date July 1, 1960, as proposed in the amendment and also as to what effect the authority to waive a claim under this proposal might have upon a claim that is subject to the 6-year statute of limitations prescribed in 28 U.S.C. 2415(d). Also you would like our comments as to the adequacy of the use of the word "pay" for purposes of this amendment.

We see no objection to the use of the date "July 1, 1960" as proposed in subparagraph (a) of section 5584. However, the use of such date does nothing more than limit the retroactive application of the waiver authority granted under the amendment. We think that in addition to the use of the date, July 1, 1960, there should be included a further limitation in the bill which would require, in effect, the exercise of the waiver authority within a prescribed period of time following the date that an erroneous payment of pay is discovered. This might be accomplished by adding a new subsection (b) immediately after subsection (a) to read substantially as follows:

"The waiver authority granted by this section may not be exercised with respect to any erroneous payment following the expiration of 3 years from the date that such erroneous payment was discovered or 3 years following the date of enactment of this act whichever is later."

We note that subsection (e) of the proposed amendment provides in effect that the waiver of an erroneous payment validates such payment for all purposes. Therefore, it would appear to have the effect of terminating the Government's right to sue and the court's jurisdiction to entertain a suit to recover the erroneous payment which is waived under the bill despite the fact that such suit may have been filed within the 6-year statute of limitations prescribed under 28 U.S.C. 2415(d). See our further comments respecting this matter, *infra*.

The use of the word "pay" in the bill is considered to be sufficiently broad to include salary, wages, compensation, emoluments and

remuneration for services. We suggest consideration be given, however, to some explanation in the committee report; particularly since the words "emoluments and remuneration" could be misconstrued. For example, we do not construe the word "pay" as sufficiently broad to include travel expense reimbursement.

In lieu of the language "certifying, payroll, disbursing or accounting official" appearing in subsection (a)(2)(B) and subsection (d) we suggest substituting the language "accountable official."

Under the amendment the Comptroller General is authorized to prescribe standards under which agencies may grant waivers of erroneous payments of pay aggregating not more than \$500. We think it would be desirable to include in the committee report on the bill a statement that it is contemplated that such standards would preclude an executive agency from exercising waiver authority with respect to any claim that it has transmitted to the General Accounting Office or to the Attorney General for collection action. If such a standard is issued, then, for all practical purposes, the bill would have no effect upon the action of the Attorney General in the filing or prosecution of suits or on the Court's jurisdiction to consider actions within the 6-year time limitation prescribed in 28 U.S.C. 2415(d).

We also invite attention to the fact that the bill applies only to the employees of an executive agency as defined in 5 U.S.C. 105. Therefore, it would not include employees of the Architect of the Capitol, Library of Congress, the Government Printing Office or any employees of the legislative branch except employees of the General Accounting Office, and neither would it include employees of the judicial branch. If a broader application of the bill is intended appropriate change should be made in the language thereof.

Sincerely yours,

FRANK H. WEITZEL,
Assistant Comptroller General of the United States.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in *italic*, existing law in which no change is proposed is shown in *roman*):

TITLE 5, UNITED STATES CODE

* * * * *

Chapter 55.—PAY ADMINISTRATION

* * * * *

SUBCHAPTER VIII.—SETTLEMENT OF ACCOUNTS

5581. Definitions.

5582. Designation of beneficiary; order of precedence.

5583. Payment of money due; settlement of accounts.

5584. Claims for overpayment of pay.

* * * * *

§ 5584. *Claims for overpayment of pay*

(a) *A claim of the United States against a person arising out of an erroneous payment of pay, on or after July 1, 1960, to an employee of*

an executive agency, the collection of which would be against equity and good conscience and not in the best interests of the United States, may be waived in whole or in part by—

(1) the Comptroller General of the United States; or

(2) the head of the executive agency when—

(A) the claim is in an amount aggregating not more than \$500;

(B) the claim is not the subject of an exception made by the Comptroller General in the account of any accountable official; and

(C) the waiver is made in accordance with standards which the Comptroller General shall prescribe.

(b) The Comptroller General or the head of the executive agency, as the case may be, may not exercise his authority under this section to waive any claim—

(1) if, in his opinion, there exists, in connection with the claim, an indication of fraud, misrepresentation, fault, or lack of good faith on the part of the employee or any other person having an interest in obtaining a waiver of the claim; or

(2) after the expiration of 3 years immediately following the date on which the erroneous payment of pay was discovered or 3 years immediately following the effective date of this section, whichever is later.

(c) A person who has repaid to the United States all or part of the amount of a claim, with respect to which a waiver is granted under this section, is entitled, to the extent of the waiver, to refund, by the employing agency at the time of the erroneous payment, of the amount repaid to the United States, if he applies to that employing agency for that refund within 2 years following the effective date of the waiver. The employing agency shall pay that refund in accordance with this section.

(d) In the audit and settlement of the accounts of any accountable official, full credit shall be given for any amounts with respect to which collection by the United States is waived under this section.

(e) An erroneous payment the collection of which is waived under this section is deemed a valid payment for all purposes.

(f) This section does not affect any authority under any other statute to litigate, settle, compromise, or waive any claim of the United States.

Union Calendar No. 765

90TH CONGRESS
2D SESSION

H. R. 17954

[Report No. 1863]

IN THE HOUSE OF REPRESENTATIVES

JUNE 18, 1968

Mr. UDALL introduced the following bill; which was referred to the Committee on Post Office and Civil Service

SEPTEMBER 4, 1968

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To correct certain inequities and relieve certain liabilities arising out of overpayments of compensation to Government employees as a result of administrative error in the application of certain provisions of the Classification Act of 1949, the Federal Employees Salary Act of 1964, and other provisions of law, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That ~~(a) all overpayments of compensation made, prior to~~
4 the date of enactment of this Act, to any employee in the
5 executive branch of the Federal Government, as a result of
6 administrative error or misinterpretation and without fault

1 on the part of the employee concerned, are hereby validated
2 in the following categories of cases:

3 ~~(1)~~ Overpayments of compensation resulting from the
4 improper adjustment from a saved rate of compensation to
5 a scheduled rate of compensation pursuant to section 507
6 of the Classification Act of 1949, as amended; or section
7 5337 of title 5, United States Code.

8 ~~(2)~~ Overpayments of compensation resulting from the
9 failure to construe a constructive step increase received by
10 the employee concerned during his period of entitlement to
11 retention of compensation under section 507 of the Classifica-
12 tion Act of 1949, as amended, or under section 5337 of
13 title 5, United States Code, as an "equivalent increase in
14 compensation" within the meaning of section 701 of such
15 Act, as amended, or section 5335 of title 5, United States
16 Code, so as to require a new waiting period to commence
17 for the next step increase.

18 ~~(3)~~ Overpayments of compensation resulting from the
19 erroneous application of section 102(b)(6) of the Federal
20 Employees Salary Act of 1964 (78 Stat. 401; Public Law
21 88-426; 5 U.S.C. 1113, note) to any employee who was
22 demoted at any time during the period beginning on the first
23 day of the first pay period which began on or after July 1,
24 1964, and ending on the date of enactment of such Act.

25 ~~(4)~~ Overpayments of compensation resulting from the

1 failure to effect a reduction in rate of compensation following
2 the enactment of the Federal Employees Salary Act of 1964
3 in the case of any employee who was promoted from a posi-
4 tion subject to section 504 of the Federal Salary Reform Act
5 of 1962, as amended (5 U.S.C. 1173), to another position
6 subject to such section, at any time during the period begin-
7 ning on the first day of the first pay period which began on
8 or after July 1, 1964, and ending on the date of enactment
9 of the Federal Employees Salary Act of 1964.

10 ~~(5)~~ Overpayments of compensation resulting from the
11 failure to effect a reduction in rate of compensation following
12 the enactment of the Federal Employees Salary Act of 1964
13 in the case of any employee who was transferred, either with
14 or without his position, from a prevailing rate schedule to
15 the General Schedule of the Classification Act of 1949, as
16 amended, at any time during the period beginning on the
17 first day of the first pay period which began on or after July
18 1, 1964, and ending on the date of enactment of the Federal
19 Employees Salary Act of 1964.

20 ~~(6)~~ Overpayments of compensation resulting from the
21 failure to effect a reduction in rate of compensation following
22 the enactment of the Federal Employees Salary Act of
23 1964 in the case of any employee in the postal field service
24 who was promoted from a position in one level of the Postal
25 Field Service Schedule to a position in a higher level of such

1 schedule at any time during the period beginning on the
2 first day of the first pay period which began on or after
3 July 1, 1964, and ending on the date of enactment of such
4 Act.

5 (b) Any employee or former employee within the
6 purview of any provision of subsection (a) of this section
7 who has repaid to the United States all or part of the
8 amounts the payment of which is validated by such subsec-
9 tion (a) shall be entitled to have refunded to him, by his
10 employing agency at the time of the overpayment of com-
11 pensation, the amount which he has repaid to the United
12 States, if he makes application for such refund to such em-
13 ploying agency within two years following the date of enact-
14 ment of this Act. Such employing agency is authorized and
15 directed to make such refund in accordance with this Act.

16 (c) The validation, in accordance with subsection (a)
17 of this section, of overpayments of compensation made prior
18 to the date of enactment of this Act shall not be held or con-
19 sidered to validate any overpayment of compensation made
20 on or after such date of enactment.

21 (d) In the audit and settlement of the accounts of any
22 certifying or disbursing officer of the United States, appro-
23 priate credit shall be given in accordance with the validation
24 by this Act of overpayments of compensation.

25 That (a) subchapter VIII of chapter 55 of title 5, United

1 *States Code, is amended by adding at the end thereof the*
2 *following new section:*

3 **“§ 5584. Claims for overpayment of pay**

4 “(a) *A claim of the United States against a person*
5 *arising out of an erroneous payment of pay, on or after*
6 *July 1, 1960, to an employee of an executive agency, the*
7 *collection of which would be against equity and good con-*
8 *science and not in the best interests of the United States,*
9 *may be waived in whole or in part by—*

10 “(1) *the Comptroller General of the United States;*

11 *or*

12 “(2) *the head of the executive agency when—*

13 “(A) *the claim is in an amount aggregating*
14 *not more than \$500;*

15 “(B) *the claim is not the subject of an exception*
16 *made by the Comptroller General in the account of*
17 *any accountable official; and*

18 “(C) *the waiver is made in accordance with*
19 *standards which the Comptroller General shall*
20 *prescribe.*

21 “(b) *The Comptroller General or the head of the*
22 *executive agency, as the case may be, may not exercise his*
23 *authority under this section to waive any claim—*

24 “(1) *if, in his opinion, there exists, in connection*
25 *with the claim, an indication of fraud, misrepresentation,*

1 *fault, or lack of good faith on the part of the employee*
2 *or any other person having an interest in obtaining a*
3 *waiver of the claim; or*

4 *“(2) after the expiration of three years immediately*
5 *following the date on which the erroneous payment of*
6 *pay was discovered or three years immediately follow-*
7 *ing the effective date of this section, whichever is later.*

8 *“(c) A person who has repaid to the United States all*
9 *or part of the amount of a claim, with respect to which a*
10 *waiver is granted under this section, is entitled, to the extent*
11 *of the waiver, to refund, by the employing agency at the*
12 *time of the erroneous payment, of the amount repaid to the*
13 *United States, if he applies to that employing agency for*
14 *that refund within two years following the effective date of*
15 *the waiver. The employing agency shall pay that refund in*
16 *accordance with this section.*

17 *“(d) In the audit and settlement of the accounts of any*
18 *accountable official, full credit shall be given for any amounts*
19 *with respect to which collection by the United States is waived*
20 *under this section.*

21 *“(e) An erroneous payment the collection of which is*
22 *waived under this section is deemed a valid payment for all*
23 *purposes.*

24 *“(f) This section does not affect any authority under any*

1 *other statute to litigate, settle, compromise, or waive any claim*
2 *of the United States.”.*

3 *(b) The table of contents of subchapter VIII of chapter*
4 *55 of title 5, United States Code, is amended by inserting the*
5 *following new item immediately below item 5583:*

“5584. Claims for overpayment of pay.”.

Amend the title so as to read: “A bill to amend title 5, United States Code, to authorize the waiver, in certain cases, of claims of the United States arising out of erroneous payments of pay to employees of the executive agencies, and for other purposes.”

A BILL

To correct certain inequities and relieve certain liabilities arising out of overpayments of compensation to Government employees as a result of administrative error in the application of certain provisions of the Classification Act of 1949, the Federal Employees Salary Act of 1964, and other provisions of law, and for other purposes.

By Mr. UDALL,

JUNE 18, 1968

Referred to the Committee on Post Office and Civil Service

SEPTEMBER 4, 1968

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

11. LANDS. Passed without amendment S. 3578, to direct the Secretary of Agriculture to release, on behalf of the U.S., a condition in a deed conveying certain lands to the South Carolina State Commission of Forestry so as to permit such Commission, subject to a certain condition, to exchange such lands. This bill will now be sent to the President. H. R. 18207, a similar bill, passed earlier as reported was tabled. pp. H8665-7
- Passed as reported H. R. 17874, to amend the Act providing for the admission of Alaska into the Union in order to extend the time for filing of applications for the selection of certain lands by such State. pp. H8676-7
- Passed with amendment (to substitute the language of H. R. 13797) S. 220, to give the Secretary of the Interior the legislative authority to sell certain parcels of land upon which an agricultural trespass has been recently discovered. H. R. 13797, a similar bill, passed earlier as reported was tabled. pp. H8662-3
- Passed without amendment S. 3687, to direct the Secretary of Agriculture to release on behalf of the U. S. a condition in a deed conveying certain lands to the State of Ohio. This bill will now be sent to the President. H. R. 18033, a similar bill, passed earlier without amendment was tabled. pp. H8664-5
- Passed as reported H. R. 4530, to authorize the Secretary of the Interior to sell at fair market value the mineral estate in lands heretofore or hereafter patented under the Color of Title Act without regard to whether the lands are subject to a mineral lease or mineral withdrawal. p. H8662
12. MILITARY CONSTRUCTION. Conferees were appointed on H. R. 18785, the military construction appropriation bill, 1969. This bill includes funds for payment to the Commodity Credit Corporation on the indebtedness for housing constructed in foreign countries with foreign currencies derived from the sale of surplus commodities. Senate conferees have been appointed. p. H8657
13. INTEREST RATES. Passed under suspension of the rules S. 3133, to extend for two years the authority for more flexible regulation of maximum rates of interest or dividends, higher reserve requirements, and open market operations in agency issues. H. R. 16092, a similar bill, was tabled. pp. H8695-700
14. INTERGOVERNMENTAL COOPERATION. Passed with amendment (to substitute the language of H. R. 18826) S. 698, to strengthen State and local government and improve the relations between those governments and the Federal Government through closer cooperation and coordination of policies and activities, particularly in the administration of Federal grant and loan programs for development assistance and by other means. H. R. 18826, a similar bill, passed earlier under suspension of the rules was tabled. pp. H8705-25
15. FISH PROTEIN. Passed, 218-102, under suspension of the rules S. 3030, to authorize the Secretary of the Interior to develop, through the use of an experiment and demonstration plant, practicable and economic means for the production by the commercial fishing industry of fish protein concentrate. pp. S8725-30

16. IAW. Passed with amendments H. R. 17864, to amend titles 5, 10, and 37 of the U. S. Code so as to incorporate recently enacted amendments. p. H8659
17. GUAM. Passed without amendment S. 3072, to authorize additional funds to complete the rehabilitation of the public sector of Guam from the devastation of World War II, and typhoons in 1942 and 1963. This bill will now be sent to the President. H. R. 16801, passed earlier under suspension of the rules was tabled. pp. H8732-4
18. NEGRO HISTORY. Passed, 263-45, under suspension of the rules H. R. 12942, to provide for the establishment of a Commission on Negro History and Culture. pp. H8745-49
19. FISHERIES. Passed with amendment S. 3866, to extend the provisions of the Commercial Fisheries Research and Development Act of 1964. H. R. 18808, a similar bill passed earlier under suspension of the rules, was tabled. pp. H8749-52
20. RECLAMATION. Passed under suspension of the rules S. 3058, to increase the authorization under title I of the Water Resources Planning Act, which establishes the Water Resources Council and specifies its authorities and responsibilities. p. H8753
Passed under suspension of the rules S. 224, to make nonreimbursable the cost of rehabilitation of the Eklutna Federal hydroelectric power project in Alaska because of damage caused by the earthquake in March 1964. pp. H8759-60
21. BUILDINGS; SAFETY. Rejected 197-136, a motion to suspend the rules and pass H. R. 2567, to require conditions of health and safety in construction using Federal funds. pp. H8687-95
PASSSED OVER
22. PERSONNEL. H. R. 17954, to correct certain inequities and relieve certain liabilities arising out of overpayments to Government employees as a result of administrative error in the application of certain provisions of the Classification Act of 1949, the Federal Employees Salary Act of 1964, and other provisions of law, and H. R. 12881, to authorize the payment of allowances to defray commuting expenses of civilian employees of executive agencies assigned to duty at remote worksites, were passed over without prejudice. p. H8671
23. HUNGER. Rep. Patten criticized the administration of the food distribution programs. p. H8776
24. ROADS. Reps. Poff and Cramer deplored inclusion of cuts in the highway program in the expenditure cuts made necessary by provisions of the Revenue and Expenditure Control Act. pp. H8774-5, H8779-80
25. POVERTY. Rep. Steiger called for oversight to prevent "wide-scale diversion and dissipation of antipowerty funds." p. H8774

ACQUISITION AND DISPOSAL OF CERTAIN LANDS AT CHICKAMAUGA AND CHATTANOOGA NATIONAL MILITARY PARK, GA.

The Clerk called the bill (H.R. 14413) to authorize the acquisition and disposal of certain lands at Chickamauga and Chattanooga National Military Park, Ga., and for other purposes.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. HALL. Mr. Speaker, reserving the right to object, I understand that this bill carries a cost to the taxpayers of \$32,000, whereas by simple arithmetic one can see that the cost of development plus the cost of acquisition is going to be greatly in excess of that.

Can I be assured that it does not, nor is it contemplated to add on any additional cost over and above that in the bill, H.R. 14413?

Mr. ASPINALL. The gentleman may be so assured and the change in the bill and the amendment is for that very purpose.

Mr. HALL. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the present consideration of the bill?

There being no objection, the Clerk read the bill as follows:

H.R. 14413

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior may acquire by purchase with donated or appropriated funds, by donation, or by exchange as hereinafter provided, a total of approximately seventy acres of land or interests in land, and the improvements thereon, between the southern boundary of the Chickamauga battlefield section of the Chickamauga and Chattanooga National Military Park in the State of Georgia, and the Chickamauga Creek, and upon acquisition the property shall be administered by the Secretary as part of the park. In acquiring such property by exchange, the Secretary may utilize all or any part of the federally owned lots in the Chickamauga battlefield section of the park numbered 4 and 5, which contain approximately seven-tenths acre and three-tenths acre respectively. The properties so exchanged shall be approximately equal in fair market value, or if they are not approximately equal, the values shall be equalized by the payment of cash to the grantor or grantee as the circumstances require. If said lots 4 and 5, or portions thereof are not exchanged pursuant to this Act, they may, upon notification by the Secretary of the Interior, be disposed of by the Administrator of General Services in accordance with the provisions of the Federal Property and Administrative Services Act of 1949 (63 Stat. 377; 40 U.S.C. 471 et seq.), as amended. Any Federal property transferred pursuant to this Act shall thereupon cease to be administered for park purposes.

Sec. 2. Effective upon acceptance thereof by the State of Georgia in accordance with its laws, and notification of such acceptance being given to the Secretary of the Interior, there is retroceded to the State of Georgia concurrent legislative jurisdiction to enable the State of Georgia, concurrently with the United States, to apply and enforce its laws, to execute civil and criminal process, and to tax persons and property within the boundaries of the Chickamauga and Chattanooga National Military Park in the State of Georgia as now constituted or as such boundaries may hereafter be revised.

The Secretary of the Interior is authorized to perform any and all acts on behalf of the United States in order to effectuate such retrocession in accordance with the laws of the State of Georgia.

SEC. 3. The Chickamauga and Chattanooga National Military Park in the States of Georgia and Tennessee is redesignated the "Chickamauga and Chattanooga National Battlefield".

With the following committee amendment:

On page 2, line 20, to page 3, line 5, strike out all of the first sentence of section 2, and insert the following in lieu thereof: "Effective upon acceptance thereof by the State of Georgia in accordance with its laws, and notification of such acceptance being given to the Secretary of the Interior, there is retroceded to and vested in the State of Georgia such jurisdiction as has been ceded by such State to the United States over any lands within the boundaries of the Chickamauga and Chattanooga National Military Park in the State of Georgia: *Provided*, That concurrent jurisdiction over such lands is reserved to the United States."

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

WAIVER OF CLAIMS FOR OVERPAYMENT OF PAY

The Clerk called the bill (H.R. 17954) to correct certain inequities and relieve certain liabilities arising out of overpayments of compensation to Government employees as a result of administrative error in the application of certain provisions of the Classification Act of 1949, the Federal Employees Salary Act of 1964, and other provisions of law, and for other purposes.

Mr. HALL. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

ALLOWANCES FOR ARMY CORPS OF ENGINEERS CIVILIAN EMPLOYEES ENGAGED IN FLOATING PLANT OPERATIONS

The Clerk called the bill (H.R. 7406) to authorize the furnishing of subsistence and quarters or per diem allowance to employees of the Corps of Engineers engaged in floating plant operations.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. HALL. Mr. Speaker, reserving the right to object, this is the second of two bills in sequence where there is a question as to whether or not a point of order would not lie if they came up other than under the Consent Calendar.

Therefore, Mr. Speaker, I also ask unanimous consent that this bill be put over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Missouri [Mr. HALL]?

There was no objection.

ALLOWANCE FOR EMPLOYEES ASSIGNED TO DUTY AT REMOTE WORKSITES

The Clerk called the bill (H.R. 12881) to authorize the payment of allowances to defray commuting expenses of civilian employees of executive agencies assigned to duty at remote worksites, and for other purposes.

Mr. GROSS. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Iowa? There was no objection.

AUTHORIZING THE PURCHASE, SALE, EXCHANGE, MORTGAGE, AND LONG TERM LEASING OF LAND BY THE SWINOMISH INDIAN TRIBAL COMMUNITY, AND FOR OTHER PURPOSES

The Clerk called the bill (H.R. 16012) to authorize the purchase, sale, exchange, mortgage, and long-term leasing of land by the Swinomish Indian Tribal Community, and for other purposes.

The SPEAKER. Is there objection to the present consideration of the bill?

There was no objection.

Mr. ASPINALL. Mr. Speaker, I ask unanimous consent that a similar Senate bill, S. 3182, which is identical to the House bill with the amendments, be considered in lieu of the House bill.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

There being no objection, the clerk read the Senate bill, as follows:

S. 3182

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is authorized to purchase with funds made available by the Swinomish Indian Tribal Community any land or interest in land within, adjacent to, or in close proximity to the boundaries of the Swinomish Indian Reservation.

Sec. 2. Any land or interest in land now owned or hereafter acquired by or in trust for the Swinomish Indian Tribal Community may be sold or exchanged for other land or interest in land within, adjacent to, or in close proximity to the boundaries of the Swinomish Indian Reservation, and the land values involved in an exchange must be equal or be equalized by the payment of money.

Sec. 3. Title to any land acquired pursuant to this Act shall be taken in the name of the United States in trust for the Swinomish Indian Tribal Community and shall be non-taxable if the land is within the boundaries of the Swinomish Indian Reservation, and title shall be taken in the name of the Community subject to no restrictions on alienation, taxation, management, or use if the land is outside such boundaries.

Sec. 4. The Swinomish Indian Tribal Community may, with the approval of the Secretary of the Interior, execute mortgages or deeds of trust to land the title to which is held by the community, or by the United States in trust for the community. Such land shall be subject to foreclosure or sale pursuant to the terms of such mortgage or deed of trust in accordance with the laws of the State of Washington. The United States shall be an indispensable party to, and may be joined in, any such proceeding involving trust land with the right to remove the ac-

tion to the United States district court for the district in which the land is situated, according to the procedure in section 1446 of title 28, United States Code, and the United States shall have the right to appeal from any order of remand entered in such action.

SEC. 5. Any moneys or credits received or credited to the Swinomish Indian Tribal Community from the sale, exchange, mortgage, or granting of any security interest in any tribal land may be used for tribal purposes.

SEC. 6. The second sentence of section 1 of the Act of August 9, 1955 (69 Stat. 539), as amended (25 U.S.C. 415), is hereby further amended by inserting the words "the Swinomish Indian Reservation," after the words "Dania Reservation."

SEC. 7. The Swinomish Indian Tribal Community may assign any income due it, subject to approval of the Secretary of the Interior. Such approval may be given in general terms or may be limited to specified assignments.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 16012) was laid on the table.

DIRECTING A PER CAPITA DISTRIBUTION OF \$550 FROM FUNDS ARISING FROM A JUDGMENT IN FAVOR OF THE CONFEDERATED TRIBES OF THE COLVILLE RESERVATION

The Clerk called the bill (H.R. 16947) to direct a per capita distribution of \$550 from funds arising from a judgment in favor of the Confederated Tribes of the Colville Reservation.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. JOHNSON of Pennsylvania. Mr. Speaker, reserving the right to object, I would like to interrogate the gentleman who was handling these bills.

I notice that we have a large number of these bills on the calendar which will mean the distribution to various Indian tribes of over \$10 million. I would like to ask the gentleman from Colorado [Mr. ASPINALL] this question. When this money is paid out, and I have asked before, will the Federal Government get a final release so that when we pay out the \$3 million as provided under this particular bill in this particular case that is a final settlement of all claims that the tribe has against the United States?

Mr. ASPINALL. Mr. Speaker, if the gentleman will yield, first may I say that these moneys are already present in the Treasury according to judgments rendered and appropriations that have been made. All we are doing here is confirming the disposition of these moneys in accordance with the plans that have come before the Committee on Interior and Insular Affairs which are part of the RECORD of the House.

I cannot answer the other question. All I can answer is that in conformity with this particular claim, this will be all of the money to which these Indians are entitled under such claim. On the other hand, equity might decide that they have other claims. We have to keep that in mind. We have been passing these bills for Indians' claims for years

and years and decades and decades so far as that is concerned. Whenever a smart lawyer finds that an Indian tribe has been denied, or has had some property taken away from them allegedly unlawfully, he goes into the Court of Claims or the Indian Claims Commission at the request of the Indians involved and if successful, receives a judgment. All we in Congress can do is to go ahead and honor that judgment and see that the money is spent in accordance with the desires and the best practices of the Indians themselves.

That is all that the bill does.

Mr. JOHNSON of Pennsylvania. Mr. Speaker, I wish to ask another question. I have noticed that some bills involving large sums of money call for a per capita distribution. In relation to other similar bills, tribes have very wisely set aside the money for tribal purposes, such as schools, roads, hospitals, and various other ventures. Has the gentleman endeavored in respect to the cases involving huge sums of money—in one of the bills \$6 million is involved—to arrange so that rather than having the money go to a per capita distribution, the tribes would establish a junior college or some similar facility with the money to help their people rather than to distribute the money wholesale?

Mr. ASPINALL. Mr. Speaker, if my colleague will yield, each one of these bills has been studied very carefully by the Subcommittee on Indian Affairs, headed by the gentleman from Florida [Mr. HALEY], and his counterpart on the other side of the aisle, the gentleman from South Dakota [Mr. BERRY]. We have gone into the equities of per capita payment as well as tribal distributions in each instance. Remember that many of the Indians involved do not live on the reservation. In some cases no benefit would go to that Indian at all unless there were a per capita distribution. So we consider each case and the needs of the various tribes and their problems and the desires of the tribe, and do what we think will lead to the betterment of the Indians themselves.

Mr. JOHNSON of Pennsylvania. One further question, and this may be a bit facetious: Will this money be paid off before election day?

Mr. ASPINALL. I will say to my colleague that if he knows anything about Indian rolls, he knows it would be impossible. If the rolls were fixed and we would be able to get the individual amounts determined, even then it would not be possible to do that. I do not believe anyone is going to make any political hay out of this operation.

Mr. JOHNSON of Pennsylvania. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the present consideration of the bill?

There was no objection.

Mr. ASPINALL. Mr. Speaker, I ask unanimous consent that a similar Senate bill, S. 3420, an identical bill to the House bill as proposed to be amended, be considered in lieu of the House bill.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

Mr. GROSS. Mr. Speaker, reserving the right to object, and I shall not object, I wish merely to say that I am struck by the number of bills that we had all of last week and are now starting all over again from the Committee on Interior and Insular Affairs. What prompts this scourge of legislation from that committee?

Mr. ASPINALL. Mr. Speaker, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Colorado.

Mr. ASPINALL. I saw the gentleman's remarks in the RECORD last week, and I had hoped in the interest of time I could have been on the floor at that time. It so happens that the Committee on Interior and Insular Affairs, under the direction of the gentleman from Pennsylvania [Mr. SAYLOR] and the chairman, the gentleman now speaking, has done its best in order to get legislation before the Congress in an orderly manner. It so happens that our committee has adjourned sine die. It so happens that on all of the bills which we had before us reports had to be brought up. These are important bills to the individuals.

May I say again to my genial friend from Iowa that there is nothing in this legislation except for the Nation generally. The State of the gentleman himself had a bill on the calendar this morning that we went over. There is nothing in here for Colorado. Colorado has already had its share.

Mr. GROSS. I make no odious comparisons of any kind. I am delighted to know that the committee is in adjournment, because I am afraid we would never reach sine die adjournment of the Congress if this committee were to continue to pour out legislation as it did last week and now today. We have not even started to get through the legislation under suspension that has been reported by the committee.

Mr. ASPINALL. My colleague is at liberty to chide the chairman all he wants, but I point out that ours is a housekeeping operation.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

There being no objection, the Clerk read the Senate bill, as follows:

S. 3420

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the funds which have been or may be deposited in the Treasury of the United States to pay a judgment of the Indian Claims Commission dated September 7, 1967, in dockets numbered 181-A and 181-B, and the interest on said funds, after payment of attorney fees and expenses, shall be credited to the account of the Confederated Tribes of the Colville Reservation and the Secretary of the Interior is authorized and directed to make a per capita distribution from such funds of a sum no more than \$550, to the extent that such funds are available, to each person born on or prior to and living on the date of this Act who meets the requirements for membership in the Confederated Tribes of the Colville Reservation. The balance of such funds, and the interest thereon, shall be combined and distributed with any other tribal funds that may hereafter become available for per capita distribution.

DIGEST of Congressional Proceedings

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

UNITED STATES DEPARTMENT OF AGRICULTURE
WASHINGTON, D. C. 20250
OFFICIAL BUSINESS

POSTAGE AND FEES PAID
U. S. DEPARTMENT OF AGRICULTURE

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HIGHLIGHTS: House committee reported dairymen's class I base plan bill. Senate confirmed nomination of Davis to be Assistant Secretary.

SENATE

1. EDUCATION. Agreed, 58-11, to the conference report on H. R. 18366, the proposed Vocational Education Amendments of 1968 (pp. S11862-71). The House received the conference report on this bill (H. Rept. 1938). The House conferees stated: "The Senate amendment contained provisions, not contained in the House bill, establishing an emergency food service program for needy children and amending the Child Nutrition Act and the National School Lunch Act. These provisions are not contained in the conference substitute" (p. H9373-89).

2. APPROPRIATIONS. Continued debate on H. R. 18707, the Defense Department appropriation bill, 1969. pp. S11862, S11872-92

Received from the Budget Bureau a report "that the appropriation to the Department of Agriculture for 'Consumer protective, marketing and regulatory programs, Consumer Marketing Service,' for the fiscal year 1969, had been reapportioned on a basis which indicates the necessity for a supplemental estimate of appropriation." p. S11838

3. PERSONNEL; CLAIMS. The Post Office and Civil Service Committee reported an original bill, S. 4120, to authorize the waiver, in certain cases, of U. S. claims arising out of erroneous payments of pay to employees of the executive agencies (S. Rept. 1607). p. S11839

Received from Treasury a report on operations in connection with the bonding of Government officers and employees. pp. S11838-9

4. PARKING FACILITIES. Conferees were appointed on S. 944, relating to the establishment of parking facilities in D. C. for Government employees and visitors to D. C. p. S11886

5. HEALTH. Passed with amendments H. R. 10790, to amend the Public Health Service Act to provide for the protection of the public health from radiation emissions from electronic products. Insisted on its amendment and asked for a conference with the House. Sen. Magnuson said conferees are to be appointed on Thurs. pp. S11893-901

6. NOMINATIONS. Confirmed the nominations of Ted J. Davis to be an Assistant Secretary of Agriculture, and Clarence F. Pautzke to be Assistant Secretary for Fish and Wildlife of the Interior Department. p. S11902

7. NUTRITION; HUNGER. The Rules and Administration Committee reported without amendment S. Res. 394, authorizing the Select Committee on Nutrition and Human Needs to examine, investigate, and make a complete study of any and all matters pertaining to the lack of food, medical assistance, and other related necessities of life and health (S. Rept. 1603). p. S11839

8. MEAT IMPORTS. Sens. Pearson and Hruska criticized Secretary Freeman's "notice on the domestic livestock industry that we must expect to absorb into our markets in this country a near-record volume of imported foreign meat before the end of this year," and called for a reexamination of our meat import policy. pp. S11851-3

HOUSE

9. DAIRY. The Agriculture Committee reported with amendment H. R. 19910, to amend provisions of the Agricultural Marketing Agreement Act relating to the class I dairy program (H. Rept. 1939). p. H9418

10. RENEGOTIATION. The "Daily Digest" states, "Conferees, in executive session, agreed to file a conference report on the differences between the Senate- and House-passed versions of H. R. 17324, proposed Renegotiation Act Amendments of 1968." p. D893

WAIVER OF GOVERNMENT CLAIMS FOR OVERPAYMENT

OCTOBER 2 (legislative day, SEPTEMBER 24), 1968.—Ordered to be printed

Mr. BYRD of West Virginia (for Mr. MONRONEY), from the Committee on Post Office and Civil Service, submitted the following

REPORT

[To accompany S. 4120]

The Committee on Post Office and Civil Service, reports an original bill (S. 4120) to amend title 5, United States Code, to authorize the waiver, in certain cases, of claims of the United States arising out of erroneous payments of pay to employees of the executive agencies, and for other purposes, and recommends that the bill do pass.

PURPOSE

This bill authorizes the head of an agency and the Comptroller General of the United States to waive payment of claims by the United States against employees who have been overpaid. The head of an agency may waive any claim which is against equity and good conscience and not in the best interest of the United States up to a maximum of \$500, and the Comptroller General, for the same reasons, may waive any claim. A claim which is subject to an exception made by the Comptroller General may not be waived.

The bill is identical to the purpose of H.R. 17954 which was reported by the Committee on Post Office and Civil Service in the House of Representatives on September 4, 1968, and is presently pending on the House Calendar.

JUSTIFICATION

Every year claims by the United States against employees for overpayment of salary and other forms of pay compensation arise. In most cases, these claims are small and usually result from administrative errors on the part of personnel officers who have erred in computing the correct pay of the employee. The rules for paying an employee can be extremely complex. The complexity is increased when Congress

enacts retroactive statutory salary increases. Retroactive pay bills were enacted in 1964, 1965, 1966, and 1967. Although these retroactive increases are appreciated by the employees who receive a lump-sum payment, the problems for the pay officer who is required to recompute their salary rates for the period of retroactivity can be extremely difficult and can result in errors which are very costly when the error is found and the employee is required to pay up.

A few examples can easily illustrate the kind of problem this legislation is designed to resolve on a permanent basis.

1. Demotions during July 1–August 14, 1964, and overpayments resulting from the erroneous application of section 102(b)(6) of the Federal Employees Salary Act of 1964, Public Law 88–426.

The Federal Employees Salary Act of 1964, Public Law 88–426, approved August 14, 1964, became effective retroactively to the first pay period which began on or after July 1, 1964. In the case of employees subject to the general schedule who were promoted from one grade to another during the retroactive period, section 102(b)(6) permitted the employee to continue receiving the rate of compensation for the step of the appropriate grade which corresponded numerically to the step of the grade which was in effect at the time of the promotion. However, there was no similar authorization contained in the conversion rules of the 1964 act, applying to employees who were demoted.

To illustrate, there were eight employees at the Philadelphia Payment Center of the Social Security Administration who were demoted during the retroactive period, July 1–August 14, 1964, and who were paid the new increased rate for the step to which they had been demoted, under the erroneous assumption that the provisions of section 102(b)(6) applied to cases of demotion as well as to cases of promotion. (See B–158170, Jan. 11, 1966.)

The overpayments for these employees ranged from \$65 to \$80 each.

2. An employee serving in a special rate category under section 504 of the Federal Salary Reform Act of 1962 (5 U.S.C. 1173) promoted during the period July 1–August 14, 1964.

An employee of the National Aeronautics and Space Administration, who was receiving a special rate under section 504 of the Federal Salary Reform Act of 1962, Public Law 87–793, was promoted during the period July 1–August 14, 1964, the retroactive period of the Federal Employees Salary Act of 1964, and placed in the higher grade in a rate above the initial rate of the grade.

The Comptroller General held (B–155395, Feb. 17, 1965) that the employee's rates would have to be recomputed on the basis of the new rates prescribed by Public Law 88–426, which, because of the retroactive provision, were the only rates in effect on and after July 1, 1964.

3. Wage board employee promoted to general schedule during period July 1–August 14, 1964.

It was the general policy that a wage board employee promoted to a position under the general schedule would receive a rate of compensation under the general schedule nearest to his wage board rate which would not result in a decrease in compensation.

To illustrate, a Federal Aviation Administration employee was promoted on August 2, 1964, from the wage board rate of \$3.81 per hour, or the annual equivalent of \$7,924, to GS-9, step 5, at \$7,950 per annum.

The Federal Employees Salary Act of 1964, Public Law 88-426, approved August 14, 1964, was retroactively effective to July 5, 1964, the first day of the first pay period which began after July 1, 1964.

The Comptroller General stated in his letter of December 13, 1965, B-156058, that the employee's promotion must be recomputed from GS-9, step 5, on the basis of the new general schedule rate, as of the date of his promotion, August 2, 1964, to the nearest rate that would not result in a decrease in the equivalent rate of \$7,924, or GS-9 step 4, \$7,955. The employee was overpaid at the step 5 rate, to August 14, 1965, in the amount of approximately \$270. There are two other similar cases in the committee records, but the amounts of the overpayments are not shown.

The Comptroller General's ruling in this and similar cases is based on the fact that the schedule of rates to which the employee was first adjusted during the retroactive period was abolished as of the beginning of the retroactive period, and the conversion then had to be recomputed under the conversion rules of the particular Pay Act. This rule of the Comptroller General was first set forth in a decision in 1951 (31 Comp. Gen. 166, 169).

As a consequence of the 1951 decision, the Congress, in a number of subsequent Pay Acts, which have retroactive effect, made special provisions for determining the step in grade of the general schedule employees who were initially appointed to a step above the minimum of the grade during the retroactive period. The 1964 Pay Act included such a provision in section 102(b)(6) for general schedule employees who were promoted during the retroactive period, but the act did not include a similar provision for those employees moving during the retroactive period from wage board positions to positions under the general schedule.

4. Promotion of postal field service employees during the period July 1-August 14, 1964.

The Federal Employees Salary Act of 1964, Public Law 88-426, approved August 14, 1964, became effective retroactively to the first pay period which began on or after July 1, 1964.

In the case of postal field service employees, section 116 required each employee to be assigned to the same numerical step to which he had been assigned immediately prior to the effective date in July 1964. Subsequent personnel actions during the retroactive period, July 1-August 14, 1964, such as promotions, were required to be reprocessed and recomputed.

To illustrate, an employee who was promoted on August 1, 1964, from PFS-17, step 5, \$16,980, to PFS-19, was required, under 39 U.S.C. 3559, to be granted the equivalent of a two-step increase. Using the pay rates in effect at the time of the promotion on August 1, 1964, the employee was placed in PFS-19, step 4, \$18,250. The step 4 rate was increased to \$21,370 by the 1964 act.

When the retroactive recomputation of the promotion was made on the basis of the increased pay rates, the two-step increase requirement was met by placing the employee in PFS-19, step 1, \$19,345. However,

the employee continued to be paid at the increased rate for step 4 (\$21,370) until the promotion action was corrected.

The committee believes that a general policy should be established to waive such claims when the employee is without fault and when his only avenue of relief from such claims is the uncertain path of private relief bills introduced in Congress. Although waiving such claims will cost the Government some money, the time and energy saved on the part of those whose duty it is to ascertain and collect overpayments will be able to be devoted to other administrative duties.

This legislation is recommended by the Bureau of the Budget, the General Accounting Office, the Civil Service Commission, and other agencies who testified in public hearings before the House of Representatives Committee on Post Office and Civil Service on the companion bill, H.R. 17954.

EXPLANATION OF THE BILL

The first section of the bill, as reported by the committee, will amend subchapter VIII of chapter 55 of title 5, United States Code, by adding a new section 5584.

Subsection (a) of the new section 5584 authorizes a claim of the United States against a person, arising out of erroneous payment of pay, on or after July 1, 1960, to an employee of an executive agency, to be waived in whole or in part in certain cases. The claim may be against the employee or his survivor.

The collection of the claim must be against equity and good conscience and not in the best interests of the United States. The waiver may be made by the Comptroller General of the United States, or by the head of the executive agency in certain cases. The head of an executive agency may waive the claim only when the aggregate amount of the claim is not more than \$500, and the claim is not the subject of an exception made by the Comptroller General in the account of an accountable official, and the waiver is made in accordance with standards which the Comptroller General shall prescribe.

The term "pay" as used in this section is intended to have its broadest meaning, as is intended generally when the word is used in title 5, United States Code. As explained in Senate Report No. 1380, 89th Congress, accompanying H.R. 10104, which enacted title 5 as positive law, the word "pay" includes all terms heretofore in use representing salary, wages, pay, compensation, emoluments, and remuneration for services.

Under the amendment, the Comptroller General is authorized to prescribe standards under which agencies may grant waivers of erroneous payments of pay aggregating not more than \$500. It is contemplated that such standards would preclude an executive agency from exercising waiver authority with respect to any claim that it has transmitted to the General Accounting Office or to the Attorney General for collection action. If such a standard is issued, then, for all practical purposes, the bill would have no effect upon the action of the Attorney General in the filing or prosecution of suits or on the court's jurisdiction to consider actions within the 6-year time limitation prescribed in 28 U.S.C. 2415(d).

Subsection (b) limits the authority to waive by providing that the authority may not be used if there exists an indication of fraud, mis-

representation, fault, or lack of good faith on the part of the employee or any other person having an interest in obtaining a waiver of the claim. Also, the waiver authority may not be exercised after the expiration of 3 years immediately following the date on which the erroneous payment of pay was discovered or 3 years immediately following the effective date of this section, whichever is later.

Subsection (c) of the new section 5584 authorizes the employing agency, at the time of the erroneous payment, to refund any amounts to a person who has repaid to the United States all or part of the amount of a claim which may have been waived under this section, provided an application is made for the refund within 2 years following the effective date of the waiver.

Subsection (d) of the new section 5584 provides that full credit shall be given in the accounts of any accountable official for any amounts with respect to which collection by the United States is waived under this section.

Subsection (e) of the new section 5584 provides that an erroneous payment, the collection of which has been waived under this section, is deemed valid payment for all purposes. This is intended to apply, but is not limited, to such matters as retirement benefits and life insurance benefits.

Subsection (f) is a savings provision to make it clear that the provisions of the new section 4484 are not intended to affect any authority under any other statute to liquidate, settle, compromise, or waive any claim of the United States.

Subsection (b) of the bill makes the necessary technical changes in the table of contents of subchapter VIII of chapter 55, title 5, United States Code, to conform with the addition of the new section 5584.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill as reported are shown as follows (existing law in which no change is proposed is shown in roman; existing law proposed to be omitted is enclosed in black brackets; new matter is shown in *italic*):

TITLE 5, UNITED STATES CODE

* * * * *

Chapter 55.—PAY ADMINISTRATION

* * * * *

SUBCHAPTER VIII.—SETTLEMENT OF ACCOUNTS

5581. Definitions.

5582. Designation of beneficiary; order of precedence.

5583. Payment of money due; settlement of accounts.

5584. Claims for overpayment of pay.

* * * * *

§ 5584. *Claims for overpayment of pay*

(a) *A claim of the United States against a person arising out of an erroneous payment of pay, on or after July 1, 1960, to an employee of*

an executive agency, the collection of which would be against equity and good conscience and not in the best interests of the United States, may be waived in whole or in part by—

(1) the Comptroller General of the United States; or

(2) the head of the executive agency when—

(A) the claim is in an amount aggregating not more than \$500;

(B) the claim is not the subject of an exception made by the Comptroller General in the account of any accountable official; and

(C) the waiver is made in accordance with standards which the Comptroller General shall prescribe.

(b) The Comptroller General or the head of the executive agency, as the case may be, may not exercise his authority under this section to waive any claim—

(1) if, in his opinion, there exists, in connection with the claim, an indication of fraud, misrepresentation, fault, or lack of good faith on the part of the employee or any other person having an interest in obtaining a waiver of the claim; or

(2) after the expiration of 3 years immediately following the date on which the erroneous payment of pay was discovered or 3 years immediately following the effective date of this section, whichever is later.

(c) A person who has repaid to the United States all or part of the amount of a claim, with respect to which a waiver is granted under this section, is entitled, to the extent of the waiver, to refund, by the employing agency at the time of the erroneous payment, of the amount repaid to the United States, if he applies to that employing agency for that refund within 2 years following the effective date of the waiver. The employing agency shall pay that refund in accordance with this section.

(d) In the audit and settlement of the accounts of any accountable official, full credit shall be given for any amounts with respect to which collection by the United States is waived under this section.

(e) An erroneous payment the collection of which is waived under this section is deemed a valid payment for all purposes.

(f) This section does not affect any authority under any other statute to litigate, settle, compromise, or waive any claim of the United States.



Calendar No. 1595

90TH CONGRESS
2D SESSION

S. 4120

[Report No. 1607]

IN THE SENATE OF THE UNITED STATES

OCTOBER 2 (legislative day, SEPTEMBER 24), 1968

Mr. BYRD of West Virginia (for Mr. MONROE), from the Committee on Post Office and Civil Service, reported the following bill; which was read twice and ordered to be placed on the calendar

A BILL

To amend title 5, United States Code, to authorize the waiver, in certain cases, of claims of the United States arising out of erroneous payments of pay to employees of the executive agencies, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That (a) subchapter VIII of chapter 55 of title 5, United
4 States Code, is amended by adding at the end thereof the
5 following new section:

6 **“§ 5584. Claims for overpayment of pay**

7 “(a) A claim of the United States against a person
8 arising out of an erroneous payment of pay, on or after July
9 1, 1960, to an employee of an executive agency, the collec-

1 tion of which would be against equity and good conscience
2 and not in the best interests of the United States, may be
3 waived in whole or in part by—

4 “(1) the Comptroller General of the United States;
5 or

6 “(2) the head of the executive agency when—

7 “(A) the claim is in an amount aggregating
8 not more than \$500;

9 “(B) the claim is not the subject of an excep-
10 tion made by the Comptroller General in the account
11 of any accountable official; and

12 “(C) the waiver is made in accordance with
13 standards which the Comptroller General shall
14 prescribe.

15 “(b) The Comptroller General or the head of the ex-
16 ecutive agency, as the case may be, may not exercise his
17 authority under this section to waive any claim—

18 “(1) if, in his opinion, there exists, in connection
19 with the claim, an indication of fraud, misrepresentation,
20 fault, or lack of good faith on the part of the employee
21 or any other person having an interest in obtaining a
22 waiver of the claim; or

23 “(2) after the expiration of three years immediately
24 following the date on which the erroneous payment of

1 pay was discovered or three years immediately follow-
2 ing the effective date of this section, whichever is later.

3 “(c) A person who has repaid to the United States all
4 or part of the amount of a claim, with respect to which a
5 waiver is granted under this section, is entitled, to the extent
6 of the waiver, to refund, by the employing agency at the
7 time of the erroneous payment, of the amount repaid to the
8 United States, if he applies to that employing agency for
9 that refund within two years following the effective date of
10 the waiver. The employing agency shall pay that refund in
11 accordance with this section.

12 “(d) In the audit and settlement of the accounts of any
13 accountable official, full credit shall be given for any
14 amounts with respect to which collection by the United
15 States is waived under this section.

16 “(e) An erroneous payment, the collection of which is
17 waived under this section, is deemed a valid payment for all
18 purposes.

19 “(f) This section does not affect any authority under
20 any other statute to litigate, settle, compromise, or waive
21 any claim of the United States.”.

22 (b) The table of contents of subchapter VIII of chap-
23 ter 55 of title 5, United States Code, is amended by insert-
24 ing the following new item immediately below item 5583:
“5584. Claims for overpayment of pay.”.

A BILL

To amend title 5, United States Code, to authorize the waiver, in certain cases, of claims of the United States arising out of erroneous payments of pay to employees of the executive agencies, and for other purposes.

By Mr. MONRONEY

OCTOBER 2 (legislative day, SEPTEMBER 24), 1968

Read twice and ordered to be placed on the calendar

DIGEST of Congressional Proceedings

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

UNITED STATES DEPARTMENT OF AGRICULTURE
WASHINGTON, D. C. 20250
OFFICIAL BUSINESS

POSTAGE AND FEES PAID
U. S. DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
FOR INFORMATION ONLY;
NOT TO BE QUOTED OR CITED

Issued October 7, 1968
For actions of October 4, 1968
90th-2nd No. 164

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HIGHLIGHTS: Senate passed foreign aid appropriation bill. Senate agreed to conference report on intergovernmental cooperation bill. Senate received Davis nomination to CCC Board.

SENATE

1. INTERGOVERNMENTAL COOPERATION. Agreed to the conference report on S. 698, the proposed Intergovernmental Cooperation Act of 1968 (pp. S12057-61). This bill will now be sent to the President. For a summary of the conference substitute bill see Digest 161.
2. APPROPRIATIONS. Passed, 44-13, as reported H. R. 19908, the foreign aid appropriation bill. As passed the bill would appropriate a total of \$2,658,261,000, an increase of \$317,250,000 over the House-passed figure of \$2,341,011,000. Conferees were appointed. House conferees have not been appointed. pp. S12079, S12083-94

3. TAXATION. Sen. Metcalf spoke in support of his bill to limit the amount of deductions attributable to the business of farming which may be used to offset nonfarm income and inserted supporting material. pp. S12065-9
4. MEAT IMPORTS. Sen. Jordan, Idaho, spoke on the "need for supplemental legislation to correct present defects" in legislation providing for the imposition of quotas on certain meat and meat products and expressed the hope that early in the next Congress "sound" import-export policies on beef and associated agricultural industries will be applied. pp. S12070-1
5. NOMINATIONS. Received the nomination of Ted J. Davis to be a member of the CCC Board and confirmed the nomination of Albert Bushong Brooke, Jr., to be a member of the Federal Power Commission. pp. S12056-7, S12113
6. PERSONNEL; CLAIMS. Passed as reported S. 4120, to authorize the waiver, in certain cases, of U. S. claims arising out of erroneous payments of pay to employees of the executive agencies. pp. S12053-5
Concurred in a House perfecting amendment to the Senate amendment to H. R. 13844, to provide additional leave of absence for Federal employees in connection with the funerals of their immediate relatives who died while on duty in the Armed Forces. This bill will now be sent to the President. p. S12107
7. NUTRITION; HUNGER. Agreed as reported to S. Res. 394, authorizing the Select Committee on Nutrition and Human Needs to examine, investigate, and make a complete study of any and all matters pertaining to the lack of food, medical assistance, and other related necessities of life and health. p. S12053
Sen. Byrd, W. Va., stated that to save thousands of Biafrans from starving "Congress should urge that the direction of the relief program be taken over by an international organization which has the power of political sanction." pp. S12061-2
8. WILDERNESS. Sen. Yarborough stated his bill to create a Big Thicket National Park in Tex. is gaining support and called on Congress not to allow it to be destroyed. p. S12072
9. ADJOURNED until Mon., Oct. 7. p. S12113

EXTENSION OF REMARKS

10. POVERTY. Sen. Prouty inserted the remarks of a survey of three low-income areas in the Dist. of Columbia. pp. E8527-99
11. OPINION POLL. Rep. Eilberg inserted the results of a questionnaire, including items of interest to this Department. pp. E8601-2
12. REPORTS. Reps. Griffiths and Podell reported to their constituents on the accomplishments of the 90th Congress. pp. E8604-6, E8648
13. REORGANIZATION. Rep. Hanna inserted a list of "fundamental reforms" which he thinks should be made in the Congress. pp. E8618-20

amendment to the Constitution was considered and agreed to, as follows:

S. RES. 408

Resolved, That there be printed for the use of the Committee on Appropriations fifteen thousand additional copies of Senate Document 56, Eighty-eighth Congress, a report by Senator Carl Hayden entitled "The Fallacies and Dangers in the Proposals To Abolish the Federal Income Tax, To Dispose of All Federal Business Activities, and To Limit Treaty-Making Powers by a Proposed 'Liberty' Amendment to the Constitution".

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 1602), explaining the purposes of the resolution.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

Senate Resolution 408 would provide that there be printed for the use of the Committee on Appropriations 15,000 additional copies of Senate Document 56, 88th Congress, a report by Senator Carl Hayden entitled "The Fallacies and Dangers in the Proposals To Abolish the Federal Income Tax, To Dispose of All Federal Business Activities, and To Limit Treaty-making Powers by a Proposed 'Liberty' Amendment to the Constitution."

The printing cost estimates, supplied by the Public Printer, is as follows:

Printing cost estimate:

Back to press, first 1,000 copies--	\$129.28
14,000 additional copies, at	
\$16.29 per thousand-----	228.06

Total estimated cost, S. Res.	
408 -----	357.34

AUTHORIZATION OF STUDY PERTAINING TO LACK OF FOOD, MEDICAL ASSISTANCE, AND OTHER RELATED NECESSITIES OF LIFE AND HEALTH

The Senate proceeded to consider the resolution (S. Res. 394) authorizing the Select Committee on Nutrition and Human Needs to examine, investigate, and make a complete study of any and all matters pertaining to the lack of food, medical assistance, and other related necessities of life and health which had been reported from the Committee on Rules and Administration, with an amendment, on page 3, line 7, after the word "exceed" strike out "\$115,000" and insert "\$25,000"; so as to make the resolution read:

S. RES. 394

Resolved, That the Select Committee on Nutrition and Human Needs as established under Senate Resolution 281 is authorized to examine, investigate, and make a complete study of any and all matters pertaining to the lack of food, medical assistance, and other related necessities of life and health including, but not limited to such matters as (a) the extent and causes of hunger and malnutrition in the United States, including educational, health, welfare, and other matters related to malnutrition; (b) the failure of food programs to reach many citizens who lack adequate quantity or quality of food; (c) the means by which this Nation can bring an adequate supply of nutritious food and other related necessities to every American; (d) the divisions of responsibility and authority within Congress and the executive branch, including appropriate procedures for congressional consideration and oversight of coordinated programs to assure that every resident of the United States has adequate

food, medical assistance, and other basic related necessities of life and health; and (e) the degree of additional Federal action desirable in these areas.

SEC. 2. For the purposes of this resolution the Committee, from the effective date hereof to January 31, 1969, inclusive, is authorized: (1) to make such expenditures as it deems advisable; (2) to employ upon a temporary basis, technical, clerical, and other assistants and consultants: *Provided*, That the minority is authorized to select one person for appointment and the person so selected shall be appointed and his compensation shall be so fixed that his gross rate shall not be less by more than \$2,400 than the highest gross rate paid to any other employee; (3) to subpoena witnesses; (4) with the prior consent of the heads of the departments or agencies concerned, and the Committee on Rules and Administration, to utilize the reimbursable services, information, facilities, and personnel of any of the departments or agencies of the Government; (5) contract with private organizational and individual consultants; (6) interview employees of the Federal, State, and local governments and other individuals; and (7) take depositions and other testimony.

SEC. 3. Expenses of the Committee in carrying out its functions shall not exceed \$25,000 through January 31, 1969, and shall be paid from the contingent fund of the Senate upon vouchers approved by the Chairman of the Committee.

The amendment was agreed to.

The resolution was agreed to.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 1603), explaining the purposes of the resolution.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

Senate Resolution 394 as referred would authorize the expenditure of not to exceed \$115,000 by the Select Committee on Nutrition and Human Needs from the effective date of this resolution through January 31, 1969—"to examine, investigate, and make a complete study of any and all matters pertaining to the lack of food, medical assistance, and other related necessities of life and health including, but not limited to such matters as (a) the extent and causes of hunger and malnutrition in the United States, including, educational, health, welfare, and other matters related to malnutrition; (b) the failure of food programs to reach many citizens who lack adequate quantity or quality of food; (c) the means by which this Nation can bring an adequate supply of nutritious food and other related necessities to every American; (d) the divisions of responsibility and authority within Congress and the executive branch, including appropriate procedures for congressional consideration and oversight of coordinated programs to assure that every resident of the United States has adequate food, medical assistance, and other basic related necessities of life and health; and (e) the degree of additional Federal action desirable in these areas."

The Committee on Rules and Administration has amended Senate Resolution 394 by reducing the requested amount from \$115,000 to \$25,000, a reduction of \$90,000.

The Select Committee on Nutrition and Human Needs, established by Senate Resolution 281, agreed to July 30, 1968, is composed of three majority and two minority members of the Committee on Labor and Public Welfare, three majority and two minority members of the Committee on Agriculture and Forestry, and two majority and one minority Members of the Senate appointed by the President of the Senate from other committees. The select committee is directed to

study the food, medical, and other related basic needs among the people of the United States, and to report back to the appropriate committees of the Senate, terminating its activities not later than June 30, 1969. Its report may contain such recommendations as the select committee finds necessary to establish a coordinated program or programs which will assure every U.S. resident adequate food, medical assistance, and other related basic necessities of life and health, and shall in addition contain appropriate procedures for congressional consideration and oversight of such coordinated programs.

The preamble was agreed to.

AUTHORIZATION OF PRINTING OF A SENATE DOCUMENT

The resolution (S. Res. 407) to authorize printing as a Senate document of the report of the staff of the Committee on Finance entitled "Steel Imports" was considered and agreed to, as follows:

Resolved, That there be printed as a Senate document, a staff study by the Committee on Finance, United States Senate, dated December 19, 1967, entitled "Steel Imports", and that there be printed one thousand copies for use by this committee.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 1604), explaining the purposes of the resolution.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

Senate Resolution 407 would authorize the printing as a Senate document of a staff study by the Committee on Finance, U.S. Senate, dated December 19, 1967, entitled "Steel Imports," and further would authorize the printing of 1,000 additional copies of such document for the use of that committee.

The printing cost estimate, supplied by the Public Printer, is as follows:

Printing cost estimate

To print as a document (1,500)...	\$3,467.27
1,000 additional copies, at \$739.40	
per thousand-----	739.40

Total estimated cost, S. Res.	
407-----	4,206.67

BILL PASSED OVER

The bill (H.R. 19136) to amend title V, United States Code, to provide for the payment of overtime and standby pay to certain personnel employed in the Department of Transportation was announced as next in order.

Mr. MANSFIELD. Over, Mr. President. The PRESIDING OFFICER. The bill will be passed over.

WAIVER OF CLAIMS ARISING OUT OF ERRONEOUS PAYMENTS OF PAY TO EMPLOYEES OF THE EXECUTIVE AGENCIES

The bill (S. 4120) to amend title 5, United States Code, to authorize the waiver, in certain cases, of claims of the United States arising out of erroneous payments of pay to employees of the executive agencies, and for other purposes was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of

America in Congress assembled, That (a) subchapter VIII of chapter 55 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 5584. Claims for overpayment of pay

"(a) A claim of the United States against a person arising out of an erroneous payment of pay, on or after July 1, 1960, to an employee of an executive agency, the collection of which would be against equity and good conscience and not in the best interests of the United States, may be waived in whole or in part by—

"(1) the Comptroller General of the United States; or

"(2) the head of the executive agency when—

"(A) the claim is in an amount aggregating not more than \$500;

"(B) the claim is not the subject of an exception made by the Comptroller General in the account of any accountable official; and

"(C) the waiver is made in accordance with standards which the Comptroller General shall prescribe.

"(b) The Comptroller General or the head of the executive agency, as the case may be, may not exercise his authority under this section to waive any claim—

"(1) if, in his opinion, there exists, in connection with the claim, an indication of fraud, misrepresentation, fault, or lack of good faith on the part of the employee or any other person having an interest in obtaining a waiver of the claim; or

"(2) after the expiration of three years immediately following the date on which the erroneous payment of pay was discovered or three years immediately following the effective date of this section, whichever is later.

"(c) A person who has repaid to the United States all or part of the amount of a claim, with respect to which a waiver is granted under this section, is entitled, to the extent of the waiver, to refund, by the employing agency at the time of the erroneous payment, of the amount repaid to the United States, if he applies to that employing agency for that refund within two years following the effective date of the waiver. The employing agency shall pay that refund in accordance with this section.

"(d) In the audit and settlement of the accounts of any accountable official, full credit shall be given for any amounts with respect to which collection by the United States is waived under this section.

"(e) An erroneous payment, the collection of which is waived under this section, is deemed a valid payment for all purposes.

"(f) This section does not affect any authority under any other statute to litigate, settle, compromise, or waive any claim of the United States."

(b) The table of contents of subchapter VIII of chapter 55 of title 5, United States Code, is amended by inserting the following item immediately below item 5583:

"5584. Claims for overpayment of pay."

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 1607), explaining the purposes of the bill.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

This bill authorizes the head of an agency and the Comptroller General of the United States to waive payment of claims by the United States against employees who have been overpaid. The head of an agency may waive any claim which is against equity and good conscience and not in the best interest of the United States up to a maximum of \$500, and the Comptroller General, for the

same reasons, may waive any claim. A claim which is subject to an exception made by the Comptroller General may not be waived.

The bill is identical to the purpose of H.R. 17954 which was reported by the Committee on Post Office and Civil Service in the House of Representatives on September 4, 1968, and is presently pending on the House Calendar.

JUSTIFICATION

Every year claims by the United States against employees for overpayment of salary and other forms of pay compensation arise. In most cases, these claims are small and usually result from administrative errors on the part of personnel officers who have erred in computing the correct pay of the employee. The rules for paying an employee can be extremely complex. The complexity is increased when Congress enacts retroactive statutory salary increases. Retroactive pay bills were enacted in 1964, 1965, 1966, and 1967. Although these retroactive increases are appreciated by the employees who receive a lump-sum payment, the problems for the pay officer who is required to recompute their salary rates for the period of retroactivity can be extremely difficult and can result in errors which are very costly when the error is found and the employee is required to pay up.

A few examples can easily illustrate the kind of problem this legislation is designed to resolve on a permanent basis.

1. Demotions during July 1–August 14, 1964, and overpayments resulting from the erroneous application of section 102(b) (6) of the Federal Employees Salary Act of 1964, Public Law 88–426.

The Federal Employees Salary Act of 1964, Public Law 88–426, approved August 14, 1964, became effective retroactively to the first pay period which began on or after July 1, 1964. In the case of employees subject to the general schedule who were promoted from one grade to another during the retroactive period, section 102(b) (6) permitted the employee to continue receiving the rate of compensation for the step of the appropriate grade which corresponded numerically to the step of the grade which was in effect at the time of the promotion. However, there was no similar authorization contained in the conversion rules of the 1964 act, applying to employees who were demoted.

To illustrate, there were eight employees at the Philadelphia Payment Center of the Social Security Administration who were demoted during the retroactive period, July 1–August 14, 1964, and who were paid the new increased rate for the step to which they had been demoted, under the erroneous assumption that the provisions of section 102 (b) (6) applied to cases of demotion as well as to cases of promotion. (See B–158170, Jan. 11, 1966.)

The overpayments for these employees ranged from \$65 to \$80 each.

2. An employee serving in a special rate category under section 504 of the Federal Salary Reform Act of 1962 (5 U.S.C. 1173) promoted during the period July 1–August 14, 1964.

An employee of the National Aeronautics and Space Administration, who was receiving a special rate under section 504 of the Federal Salary Reform Act of 1962, Public Law 87–793, was promoted during the period July 1–August 14, 1964, the retroactive period of the Federal Employees Salary Act of 1964, and placed in the higher grade in a rate above the initial rate of the grade.

The Comptroller General held (B–155395, Feb. 17, 1965) that the employee's rates would have to be recomputed on the basis of the new rates prescribed by Public Law 88–426, which, because of the retroactive provision, were the only rates in effect on and after July 1, 1964.

3. Wage board employee promoted to general schedule during period July 1–August 14, 1964.

It was the general policy that a wage board employee promoted to a position under the general schedule would receive a rate of compensation under the general schedule nearest to his wage board rate which would not result in a decrease in compensation.

To illustrate, a Federal Aviation Administration employee was promoted on August 2, 1964, from the wage board rate of \$3.81 per hour, or the annual equivalent of \$7,924, to GS–9, step 5, at \$7,950 per annum.

The Federal Employees Salary Act of 1964, Public Law 88–426, approved August 14, 1964, was retroactively effective to July 5, 1964, the first day of the first pay period which began after July 1, 1964.

The Comptroller General stated in his letter of December 13, 1965, B–156058, that the employee's promotion must be recomputed from GS–9, step 5, on the basis of the new general schedule rate, as of the date of his promotion, August 2, 1964, to the nearest rate that would not result in a decrease in the equivalent rate of \$7,924, or GS–9, step 4, \$7,955. The employee was overpaid at the step 5 rate, to August 14, 1965, in the amount of approximately \$270. There are two other similar cases in the committee records, but the amounts of the overpayments are not shown.

The Comptroller General's ruling in this and similar cases is based on the fact that the schedule of rates to which the employee was first adjusted during the retroactive period was abolished as of the beginning of the retroactive period, and the conversion then had to be recomputed under the conversion rules of the particular Pay Act. This rule of the Comptroller General was first set forth in a decision in 1951 (31 Comp. Gen. 166, 169).

As a consequence of the 1951 decision, the Congress, in a number of subsequent Pay Acts, which have retroactive effect, made special provisions for determining the step in grade of the general schedule employees who were initially appointed to a step above the minimum of the grade during the retroactive period. The 1964 Pay Act included such a provision in section 102(b) (6) for general schedule employees who were promoted during the retroactive period, but the act did not include a similar provision for those employees moving during the retroactive period from wage board positions to positions under the general schedule.

4. Promotion of postal field service employees during the period July 1–August 14, 1964.

The Federal Employees Salary Act of 1964, Public Law 88–426, approved August 14, 1964, became effective retroactively to the first pay period which began on or after July 1, 1964.

In the case of postal field service employees, section 116 required each employee to be assigned to the same numerical step to which he had been assigned immediately prior to the effective date in July 1964. Subsequent personnel actions during the retroactive period, July 1–August 14, 1964, such as promotions, were required to be reprocessed and computed.

To illustrate, an employee who was promoted on August 1, 1964, from PFS–17, step 5, \$16,980, to PFS–19, was required, under 39 U.S.C. 3559, to be granted the equivalent of a two-step increase. Using the pay rates in effect at the time of the promotion on August 1, 1964, the employee was placed in PFS–19, step 4, \$18,250. The step 4 rate was increased to \$21,370 by the 1964 act.

When the retroactive recomputation of the promotion was made on the basis of the increased pay rates, the two-step increase requirement was met by placing the employee in PFS–19, step 1, \$19,345. However, the employee continued to be paid at the increased rate for step 4 (\$21,370) until the promotion action was corrected.

The committee believes that a general policy should be established to waive such claims when the employee is without fault

and when his only avenue of relief from such claims is the uncertain path of private relief bills introduced in Congress. Although waiving such claims will cost the Government some money, the time and energy saved on the part of those whose duty it is to ascertain and collect overpayments will be able to be devoted to other administrative duties.

This legislation is recommended by the Bureau of the Budget, the General Accounting Office, the Civil Service Commission, and other agencies who testified in public hearings before the House of Representatives Committee on Post Office and Civil Service on the companion bill, H.R. 17954.

EXPLANATION OF THE BILL

The first section of the bill, as reported by the committee, will amend subchapter VIII of chapter 55 of title 5, United States Code, by adding a new section 5584.

Subsection (a) of the new section 5584 authorizes a claim of the United States against a person, arising out of erroneous payment of pay, on or after July 1, 1960, to an employee of an executive agency, to be waived in whole or in part in certain cases. The claim may be against the employee or his survivor.

The collection of the claim must be against equity and good conscience and not in the best interests of the United States. The waiver may be made by the Comptroller General of the United States, or by the head of the executive agency in certain cases. The head of an executive agency may waive the claim only when the aggregate amount of the claim is not more than \$500, and the claim is not the subject of an exception made by the Comptroller General in the account of an accountable official, and the waiver is made in accordance with standards which the Comptroller General shall prescribe.

The term "pay" as used in this section is intended to have its broadest meaning, as is intended generally when the word is used in title 5, United States Code. As explained in Senate Report No. 1380, 89th Congress, accompanying H.R. 10104, which enacted title 5 as positive law, the word "pay" includes all terms heretofore in use representing salary, wages, pay, compensation, emoluments, and remuneration for services.

Under the amendment, the Comptroller General is authorized to prescribe standards under which agencies may grant waivers of erroneous payments of pay aggregating not more than \$500. It is contemplated that such standards would preclude an executive agency from exercising waiver authority with respect to any claim that it has transmitted to the General Accounting Office or to the Attorney General for collection action. If such a standard is issued, then, for all practical purposes, the bill would have no effect upon the action of the Attorney General in the filing or prosecution of suits or on the court's jurisdiction to consider actions within the 6-year time limitation prescribed in 28 U.S.C. 2415(d).

Subsection (b) limits the authority to waive by providing that the authority may not be used if there exists an indication of fraud, misrepresentation, fault, or lack of good faith on the part of the employee or any other person having an interest in obtaining a waiver of the claim. Also, the waiver authority may not be exercised after the expiration of 3 years immediately following the date on which the erroneous payment of pay was discovered or 3 years immediately following the effective date of this section, whichever is later.

Subsection (c) of the new section 5584 authorizes the employing agency, at the time of the erroneous payment, to refund any amounts to a person who has repaid to the United States all or part of the amount of a claim which may have been waived under this section, provided an application is

made for the refund within 2 years following the effective date of the waiver.

Subsection (d) of the new section 5584 provides that full credit shall be given in the accounts of any accountable official for any amounts with respect to which collection by the United States is waived under this section.

Subsection (e) of the new section 5584 provides that an erroneous payment, the collection of which has been waived under this section, is deemed valid payment for all purposes. This is intended to apply, but is not limited, to such matters as retirement benefits and life insurance benefits.

Subsection (f) is a savings provision to make it clear that the provisions of the new section 4484 are not intended to affect any authority under any other statute to liquidate, settle, compromise, or waive any claim of the United States.

Subsection (b) of the bill makes the necessary technical changes in the table of contents of subchapter VIII of chapter 55, title 5, United States Code, to conform with the addition of the new section 5584.

BILL PASSED OVER

The bill (S. 3184) relating to the appointment of U.S. marshals was announced as next in order.

Mr. MANSFIELD. Over, Mr. President.

The PRESIDING OFFICER. The bill will be passed over.

FINANCIAL RESPONSIBILITY REQUIREMENTS

The bill (H.R. 13480) to make the proof of financial responsibility requirements of section 39(a) of the Motor Vehicle Safety Responsibility Act of the District of Columbia inapplicable in the case of minor traffic violations involving drivers' licenses and motor vehicle registration was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD and excerpt from the report (No. 1608), explaining the purposes of the bill.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill (H.R. 13480) is to amend section 39 of the Motor Vehicle Safety Responsibility Act of the District of Columbia to limit the requirement for future proof of financial responsibility to those cases involving the serious offenses of a person driving a motor vehicle in the District of Columbia when his driver's license is suspended or revoked. Drivers who lose their licenses as a result of minor violations, not necessarily connected with safe driving, would not be required to meet the same stringent standard of financial responsibility as would drivers found guilty of serious infractions.

This amendment would eliminate inequities which have arisen under present law in cases of motorists convicted of relatively minor traffic offenses which do not constitute a traffic safety problem.

BACKGROUND

Section 39 of the Motor Vehicle Safety Responsibility Act of the District of Columbia, approved May 25, 1954 (68 Stat. 120, as amended; D.C. Code, title 40, sec. 455(a)) requires the suspension or denial of licenses

to and registrations of, motor vehicles of persons convicted of or forfeiting bail or collateral on certain traffic offenses; namely, (1) driving a motor vehicle without being licensed under D.C. law, or (2) driving a vehicle not registered under D.C. law when so required.

This section also prohibits the registering of such motor vehicles in the name of such person as owner unless he gives and maintains proof of financial responsibility.

The effect of the foregoing is the suspension or denial of drivers' licenses or registrations after convictions or forfeiture of collateral in the following cases:

- (1) Driving without any kind of permit.
- (2) Driving on an expired permit.
- (3) Driving with a valid out-of-State permit after the holder thereof has resided in the District beyond the reciprocity period.
- (4) Driving while privilege is suspended or revoked.
- (5) Driving with no tags on a vehicle.
- (6) Driving on "dead" tag.
- (7) Driving with valid out-of-State tags, but after the owner has resided in the District beyond the reciprocity period.

In addition, section 37 of the Motor Vehicle Safety Responsibility Act requires the mandatory suspension of license and registration of any person convicted of or forfeiting bail or collateral on five specified violations:

- (1) Driving under the influence of intoxicating liquor or narcotic drug.
- (2) Committing a homicide or other felony while using a motor vehicle.
- (3) Leaving scene of accident involving personal injury without giving assistance or making his identity known.
- (4) Reckless driving involving personal injury.
- (5) Out-of-District convictions for the foregoing offenses.

As to these violations, the act requires the motorist so convicted to file with the Department of Motor Vehicles evidence that he is financially responsible—usually established by proof of insurance coverage for the future—before he is permitted to operate or register a motor vehicle in the District.

REASON FOR LEGISLATION

The Motor Vehicle Safety Responsibility Act of the District of Columbia requires a motorist convicted of certain offenses to file with the Department of Motor Vehicles evidence that he is financially responsible, usually by way of insurance coverage for the future, because the commission of those offenses demonstrates that the motorist committing them may be a traffic safety problem. For example, section 37 of the act (sec. 40-453, D.C. Code) requires that persons convicted of any of the five specified mandatory revocation offenses "give and thereafter maintain proof of financial responsibility" before they are permitted to operate or register a motor vehicle. Since such motorists are statistically poorer insurance risks, insurance companies are allowed to charge a substantially larger premium for this coverage. In fact, your committee understands that for some motorists the premiums are prohibitive.

H.R. 13480 makes no change in the law respecting such serious traffic offenses. However, of the seven possible factual situations set forth above, covered by section 39 of the act, only driving while operating privileges are suspended or revoked may be considered as involving an element of danger to the general public. The other offenses (except possibly operating without any kind of permit) often involve inadvertence, or a misunderstanding of reciprocity regulations respecting operators' permits and auto tags. For example, your committee understands that the Department of Motor Vehicles often fails to notify many persons that their permit will expire shortly (this is a courtesy not required by law but is done whenever possible). Such persons may be stopped for a

minor violation and then discover their permit has expired—in some cases for no more than a few days at most. Many persons establish residence in the District arriving from a State which has no reciprocity with the District on tags or permit. If stopped by an officer, such persons are charged with operating a vehicle without D.C. permit or tags when both are required. In such situations the same requirement of expensive compulsory insurance is imposed on such persons.

In the opinion of the District government, concurred in by your committee, no useful safety purpose is served by the requirement in such cases. The required insurance is costly and is difficult to obtain. Many companies already insuring such persons will cancel rather than file the required certificate. What is worse, once a suspension is on the person's record, he finds it difficult to obtain ordinary insurance in the future because the first question on an application blank is: "Have you ever been suspended or revoked for any reason?" Essentially the present law equates these latter type of violators with those who drive while drunk, or commit homicides with a motor vehicle, and the like, while the committee is informed that the minor violator in nearly all cases involves a person whose traffic record has no traffic safety implications.

The present amendment has been requested by the District of Columbia government in order to ameliorate the harsh impact of the present law on drivers who pose no traffic hazard. Your committee agrees that by equating such cases of unintentional and relatively unimportant violations with such serious violations as driving under the influence of intoxicating liquor or narcotic drug, homicides, or felonies committed while using motor vehicles (sec. 37 of the act) and requiring persons involved in the unintentional or relatively unimportant infractions to purchase high-premium, extra-risk insurance, existing law evokes justifiably adverse criticism against a provision which, in most cases, serves no valid purpose. Further, your committee is informed that persons who have become subject to section 39(a) of the act for having failed to obtain District of Columbia permits or tags are discouraged from ever obtaining them and from driving in the District because of the cost of buying insurance.

H.R. 13480 makes proof of financial responsibility which is required under section 39 of the Motor Vehicle Safety Responsibility Act, applicable only to the motorist guilty of the serious violations of "driving a motor vehicle within the District of Columbia at a time when his license is suspended or revoked"—and inapplicable to the minor traffic offenses heretofore listed.

HEARING

H.R. 13480 was the subject of a public hearing before the Subcommittee on Business and Commerce on September 19, 1968. Representatives of the District of Columbia government appeared at the hearing and testified in favor of the bill. Your committee has heard of no objections to the bill and feels that its enactment is in the public interest.

BILLS PASSED OVER

The bill (H.R. 14096) to amend the Federal Food, Drug, and Cosmetic Act to increase the penalties for unlawful acts involving lysergic acid diethylamide (LSD) and other depressant and stimulant drugs, and for other purposes; and the bill (S. 4062) to amend title 13, United States Code, relating to census questions, were announced as next in order.

Mr. MANSFIELD. Mr. President, I ask that these two bills go over.

The PRESIDING OFFICER. The bills will be passed over.

AUTHORIZATION TO PRINT SENATE DOCUMENT

The Senate proceeded to consider the resolution (S. Res. 397) to print as a Senate document a study entitled "Aspects of Intellectual Ferment and Dissent in the Soviet Union" which had been reported from the Committee on Rules and Administration, with an amendment in line 5, after the word "printed" strike out "ten thousand" and insert "eight thousand seven hundred"; so as to make the resolution read:

Resolved, That there be printed as a Senate document a study entitled "Aspects of Intellectual Ferment and Dissent in the Soviet Union," prepared at the request of Senator Thomas J. Dodd by the Legislative Reference Service of the Library of Congress; and that there be printed eight thousand seven hundred additional copies of such document for the use of the Committee on the Judiciary.

The amendment was agreed to.

The resolution was agreed to.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 1611), explaining the purposes of the resolution.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

Senate Resolution 397 as referred would authorize the printing as a Senate document of a study entitled "Aspects of Intellectual Ferment and Dissent in the Soviet Union," prepared at the request of Senator Thomas J. Dodd by the Legislative Reference Service of the Library of Congress; and further would authorize the printing of 10,000 additional copies of such document for the use of the Committee on the Judiciary.

The Committee on Rules and Administration has found it necessary to amend Senate Resolution 397 by reducing the quantity of additional copies to be printed from 10,000 to 8,700, the maximum obtainable under the \$1,200 limitation for simple resolutions.

The printing-cost estimate of Senate Resolution 397 as amended is as follows:

Printing-cost estimate		
To print as a document (1,500 copies)-----		\$566.63
8,700 additional copies, at \$136.86 per thousand-----		1,190.68
Total estimated cost, S. Res. 397 as amended-----		1,757.31

Mr. MANSFIELD. Mr. President, that concludes the call of the calendar.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar, beginning with United Nations Representatives.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNITED NATIONS REPRESENTATIVES

The bill clerk proceeded to read sundry nominations of United Nations Representatives.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

DISTRICT OF COLUMBIA COURT OF APPEALS

The bill clerk read the nomination of Andrew McCaughrin Hood, of the District of Columbia, to be Chief Judge of the District of Columbia Court of Appeals.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

NOMINATIONS PLACED ON THE SECRETARY'S DESK—DIPLOMATIC AND FOREIGN SERVICE AND U.S. COAST GUARD

The bill clerk proceeded to read sundry nominations in the Diplomatic and Foreign Service and U.S. Coast Guard which had been placed on the Secretary's desk.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

FEDERAL POWER COMMISSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the nomination of Albert Bushong Brooke, Jr.

The bill clerk read the nomination of Albert Bushong Brooke, Jr., of Maryland, to be a member of the Federal Power Commission.

Mr. METCALF. Mr. President, when Mr. Brooke was nominated, certain publications suggested that perhaps Mr. Brooke would be—and I quote from the September 30, 1968, issue of *Electrical World* "poles apart" from the philosophy of FPC Chairman Lee C. White, who usually voted with Ross. Brooke describes himself as "right of center."

Another statement in the September 30 issue of *Electrical World*, which was a news comment on Mr. Brooke, gave me real concern.

I was not able to be at the session of the Committee on Commerce when Mr. Brooke was being considered. I sent for the hearing record. The Senator from Utah [Mr. Moss] asked Mr. Brooke if there are areas of Power Commission jurisdiction which could be eliminated.

Mr. Brooke responded:

Well, just looking at it objectively, you might say the fewer the better. But I don't know if that would be the right answer or not...

Then Senator Moss asked:

Do you favor vigorous enforcement of the Commission's responsibility to police wholesale rates?

In my opinion, Mr. Brooke evaded the question.

So I was concerned about this nomination. A man who says that he is "poles apart" from the philosophy of the Chairman of the Commission certainly should answer, objectively and honestly, some of the questions, about that philosophy, if he knows how he feels about the various problems of jurisdiction.

90TH CONGRESS
2D SESSION

S. 4120

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 8, 1968

Referred to the Committee on Post Office and Civil Service

AN ACT

To amend title 5, United States Code, to authorize the waiver, in certain cases, of claims of the United States arising out of erroneous payments of pay to employees of the executive agencies, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That (a) subchapter VIII of chapter 55 of title 5, United
4 States Code, is amended by adding at the end thereof the
5 following new section:

6 **“§ 5584. Claims for overpayment of pay**

7 “(a) A claim of the United States against a person
8 arising out of an erroneous payment of pay, on or after July

1 1, 1960, to an employee of an executive agency, the collec-
2 tion of which would be against equity and good conscience
3 and not in the best interests of the United States, may be
4 waived in whole or in part by—

5 “(1) the Comptroller General of the United States;

6 or

7 “(2) the head of the executive agency when—

8 “(A) the claim is in an amount aggregating
9 not more than \$500;

10 “(B) the claim is not the subject of an excep-
11 tion made by the Comptroller General in the account
12 of any accountable official; and

13 “(C) the waiver is made in accordance with
14 standards which the Comptroller General shall
15 prescribe.

16 “(b) The Comptroller General or the head of the ex-
17 ecutive agency, as the case may be, may not exercise his
18 authority under this section to waive any claim—

19 “(1) if, in his opinion, there exists, in connection
20 with the claim, an indication of fraud, misrepresentation,
21 fault, or lack of good faith on the part of the employee
22 or any other person having an interest in obtaining a
23 waiver of the claim; or

“ (2) after the expiration of three years immediately following the date on which the erroneous payment of pay was discovered or three years immediately following the effective date of this section, whichever is later.

“ (c) A person who has repaid to the United States all or part of the amount of a claim, with respect to which a waiver is granted under this section, is entitled, to the extent of the waiver, to refund, by the employing agency at the time of the erroneous payment, of the amount repaid to the United States, if he applies to that employing agency for that refund within two years following the effective date of the waiver. The employing agency shall pay that refund in accordance with this section.

“ (d) In the audit and settlement of the accounts of any accountable official, full credit shall be given for any amounts with respect to which collection by the United States is waived under this section.

“ (e) An erroneous payment, the collection of which is waived under this section, is deemed a valid payment for all purposes.

“ (f) This section does not affect any authority under any other statute to litigate, settle, compromise, or waive any claim of the United States.”.

1 (b) The table of contents of subchapter VIII of chap-
2 ter 55 of title 5, United States Code, is amended by insert-
3 ing the following new item immediately below item 5583:
 “5584. Claims for overpayment of pay.”.

Passed the Senate October 4, 1968.

Attest:

FRANCIS R. VALEO,

Secretary.

AN ACT

To amend title 5, United States Code, to authorize the waiver, in certain cases, of claims of the United States arising out of erroneous payments of pay to employees of the executive agencies, and for other purposes.

OCTOBER 8, 1968

Referred to the Committee on Post Office and Civil
Service

DIGEST of Congressional Proceedings

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

UNITED STATES DEPARTMENT OF AGRICULTURE
WASHINGTON, D. C. 20250
OFFICIAL BUSINESS

POSTAGE AND FEES PAID
U. S. DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
FOR INFORMATION ONLY;
NOT TO BE QUOTED OR CITED)

Issued October 11, 1968
For actions of October 10, 11, & 12, 1968
90th-2nd Nos. 169-170

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HIGHLIGHTS: Both Houses agreed to conference report on supplemental appropriation bill. Senate agreed to conference report on foreign-aid appropriation bill.

HOUSE - Oct. 11

1. APPROPRIATIONS. Agreed to, 209-12, the conference report on H. R. 20300, the supplemental appropriation bill (pp. H9839-47). The Senate also agreed to the conference report (pp. S12749-54). Both Houses acted on amendments in disagreement (pp. H9848-50, S12750-1). This bill will now be sent to the President. The final bill includes \$75,000 for extension services in D. C., \$55,000,000 for the food stamp program, \$300,000 for amendments to the Commodity Exchange Act, \$250,000 for salaries and expenses of the Farmers Home Administration, \$600,000 for the self-help housing land development fund, and no funds for mutual and self-help housing. Regarding the FHA salaries and expenses item, the House conferees stated: "The conferees have agreed to these extra funds for administrative expenses with the understanding that the additional personnel ceiling needed to cover the positions to be financed from these funds shall not be transferred from any other agency of the Department of Agriculture."
Agreed to, 213-6, the conference report on H. R. 18707, the defense appropriation bill (pp. H9853-60). The Senate also agreed to the conference report (pp. S12824-6). Both Houses acted on amendments in disagreement (pp. H9860, S12825). This bill will now be sent to the President.
2. WATERSHEDS. Received notices from the Agriculture Committee that it had approved watershed reports on New Jerusalem, Calif., and Kanawha Twomile Creek, W. Va. p. H9835
3. HEALTH. Both Houses agreed to the conference report on H. R. 10790, to amend the Public Health Service Act to provide for protection of the public health from radiation emissions from electronic products. This bill will now be sent to the President. pp. H9837, S12745-8
4. PARKING. Conferees were appointed on S. 944, providing for additional parking facilities in D. C. (p. H9838). The conferees agreed to file a report on the bill (p. D928).
5. PINE GUM; PRICE SUPPORTS. Agreed to a resolution for consideration of S. 2511, to provide for price supports on crude pine gum (p. H9838). The bill was then recommitted to the Agriculture Committee on a point of order by Rep. Findley that the Committee had reported the bill without a quorum being present (pp. H9838-9).
6. PERSONNEL. S. 1507, to permit firefighters to retire as hazardous-work employees, was recommitted to the Post Office and Civil Service Committee on a point of order by Rep. Ashbrook that a quorum was not present when the Committee had reported the bill. p. H9851
Passed as reported H. R. 12881, to authorize allowances for commuting expenses of civilian employees of executive agencies assigned to duty at remote worksites. pp. H9851-2
Passed without amendment S. 4120, to authorize waiver in certain cases of U. S. claims for erroneous pay to executive agency employees. This bill will now be sent to the President. pp. H9852-3
7. TEXTILES. Rep. Rivers discussed the efforts of the Stevens textile company to avoid unionization of its employees and said unionization has some disadvantages for employees. pp. H9867-9

GENERAL LEAVE

Mr. MAHON. Mr. Speaker, I ask unanimous consent that all Members who spoke may be permitted to revise and extend their remarks on the conference report and the amendments just adopted.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

APPOINTMENT AS MEMBERS OF THE NATIONAL ADVISORY COMMISSION ON LOW INCOME HOUSING

The SPEAKER. Pursuant to the provisions of section 110(a), Public Law 90-448, the Chair appoints as members of the National Advisory Commission on Low Income Housing the following Members on the part of the House: Mr. PATMAN of Texas; Mr. BARRETT of Pennsylvania; Mr. DEL CLAWSON of California; and Mr. BROWN of Michigan.

FOR THE RELIEF OF CLIFTON R. KINDT

Mr. DOWDY. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 5818) for the relief of Clifton R. Kindt, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 2, line 1, after "8348" insert "of title 5, United States Code,".

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. ASHBROOK. Mr. Speaker, reserving the right to object, will the gentleman yield?

Mr. DOWDY. I yield to the gentleman from Ohio.

Mr. ASHBROOK. It is my understanding that this is merely a technical conforming amendment. It would in no way change the substance of this act.

Mr. DOWDY. Not at all.

Mr. ASHBROOK. I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Senate amendment was concurred in.

A motion to reconsider was laid on the table.

TO INCLUDE FIREFIGHTERS WITHIN THE PROVISIONS OF UNITED STATES CODE RELATING TO RETIREMENT OF GOVERNMENT EMPLOYEES ENGAGED IN CERTAIN HAZARDOUS OCCUPATIONS

Mr. DULSKI. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (S. 1507) to include firefighters within the provisions of section 8336(c) of title 5, United States Code, relating to the retirement of Government employees engaged in certain hazardous occupations.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from New York?

Mr. ASHBROOK. Mr. Speaker, reserving the right to object, I would make a point of order against the bill. I make a point of order that report No. 1945 violates rule XI, clause 26, and that a quorum was not present when the bill was passed by the Post Office and Civil Service Committee.

The SPEAKER. The Chair will state that the unanimous-consent request is for the present consideration of the bill. In the opinion of the Chair, at this point a point of order is not in order. If the consent is granted, then a point of order might be in order, though the Chair does not indicate what the decision of the Chair might be.

Mr. ASHBROOK. Mr. Speaker, I would say to the Chair, on that ground I would withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the bill, as follows:

S. 1507

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8336(c) of title 5, United States Code, is amended by inserting after "United States" the following: "or are primarily to perform work directly connected with the control and extinguishment of fires or the maintenance and use of firefighting apparatus and equipment".

Sec. 2. The provisions of section 8348(g) of title 5, United States Code, shall not be applicable with respect to benefits payable pursuant to the amendment made by this Act.

Sec. 3. The amendment made by this Act shall be applicable only in the case of persons retiring after the date of enactment of this Act.

The SPEAKER. Now does the gentleman from Ohio want to make the point of order?

Mr. ASHBROOK. Yes, Mr. Speaker. I make the point of order for the reasons already stated and request that the bill be recommitted to the Committee on Post Office and Civil Service.

The SPEAKER. The Chair would like to ask the gentleman from New York if a quorum was present in his committee when the bill was reported?

Mr. DULSKI. Mr. Speaker, the gentleman from Ohio is correct. There was no quorum present.

The SPEAKER. Under those circumstances, the Chair sustains the point of order and the bill is recommitted to the Committee on Post Office and Civil Service.

ALLOWANCE FOR EMPLOYEES ASSIGNED TO DUTY AT REMOTE WORK SITES

Mr. DULSKI. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 12881) to authorize the payment of allowances to defray commuting expenses of civilian employees of executive agencies assigned

to duty at remote worksites, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from New York?

Mr. ASHBROOK. Mr. Speaker, I rise to make the same point of order against this bill and request that it be recommitted to the Committee on Post Office and Civil Service.

The SPEAKER. The Chair will inquire of the chairman of the Post Office and Civil Service Committee if a quorum was present.

Mr. DULSKI. Mr. Speaker, on H.R. 12881, a quorum was present when the bill was reported out. A quorum was present.

Mr. ASHBROOK. Mr. Speaker, based on that statement, I withdraw my point of order.

The SPEAKER. The point of order is withdrawn.

Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the bill, as follows:

H.R. 12881

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding section 1765 of the Revised Statutes (5 U.S.C. 70), each civilian employee in the executive branch of the Government who is assigned to duty (other than temporary duty) at a site so remote from the nearest established communities or suitable places of residence as to require an appreciable amount of expense, hardship, and inconvenience on the part of the employee in commuting to and from his residence and such worksite, shall be paid, in accordance with regulations prescribed by the President, in addition to the rate of compensation for his position, an allowance of not to exceed \$10 a day. Such regulations shall establish the rates at which the allowance is to be paid and shall define and designate those sites, areas, and groups of positions to which such rates shall apply.

With the following committee amendment:

Strike out all after the enacting clause and insert in lieu thereof the following:

"That (a) section 5942 of title 5, United States Code, is amended to read as follows: "§ 5942. Allowance based on duty at remote worksites

"Notwithstanding section 5536 of this title, an employee of an Executive agency who is assigned to duty, except temporary, duty, at a site so remote from the nearest established communities or suitable places of residence as to require an appreciable amount of expense, hardship, and inconvenience on the part of the employee in commuting to and from his residence and such worksite is entitled, in addition to pay otherwise due him, to an allowance of not to exceed \$10 a day. However, the allowance shall be paid under regulations prescribed by the President establishing the rates at which the allowance will be paid and defining and designating those sites, areas, and groups of positions to which the rates apply."

"(b) The table of contents of subchapter IV of chapter 59 of title 5, United States Code, is amended by striking out—

"5942. Allowance based on duty on California offshore islands or at Nevada Test Site."

and inserting in lieu thereof—

"5942. Allowance based on duty at remote worksites."

"Sec. 2. Notwithstanding section 5536 of title 5, United States Code, and the amendments made by the first section of this Act, and until the effective date of regulations prescribed by the President under such amendments—

"(1) allowances may be paid to employees under section 5942 of title 5, United States Code, and the regulations prescribed by the President under such section, as in effect immediately prior to the date of enactment of this Act; and

"(2) such regulations may be amended or revoked in accordance with such section 5942 as in effect immediately prior to such date of enactment."

The committee amendment was agreed to.

Mr. DULSKI. Mr. Speaker, I rise in support of H.R. 12881.

It is the purpose of this legislation, with the committee amendment, to provide general authorization for the payment of an allowance, not to exceed \$10 a day, to defray the commuting expenses of civilian employees of executive agencies assigned to duty at remote worksites.

Existing law—5 United States Code, 5942—authorizes an allowance, not to exceed \$10 a day, for employees assigned to duty at only two worksites, the California offshore islands and the Atomic Energy Commission Nevada Test Site.

The committee amendment rewrites the provisions of existing law to remove references to particular worksites and provides general legislative authorization for the allowance to be provided for all employees of executive agencies, except employees on temporary duty, where valid circumstances justify the payment of such an allowance.

Mr. Speaker, our committee received extensive testimony justifying the payment of such an allowance at several additional worksites, particularly at Fort Irwin, Calif., where employees have an average daily commuting distance of 108 miles.

This legislation authorizes the administration to provide the necessary allowance where the circumstances justify the payment of an allowance to cover the cost of unusual commuting expenses.

Mr. Speaker, I urge the adoption of H.R. 12881.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

A motion to reconsider was laid on the table.

AUTHORIZING WAIVER OF CLAIMS OF UNITED STATES ARISING OUT OF ERRONEOUS PAYMENTS TO EMPLOYEES OF EXECUTIVE AGENCIES

Mr. DULSKI. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (S. 4120), to amend title 5, United States Code, to authorize the waiver, in certain cases, of claims of the United States arising out of erroneous payments of pay to employees of the executive agencies, and for other purposes, a bill which is identical to the bill (H.R. 17954), with committee amendments, now on the Union Calendar of the House.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from New York?

Mr. ASHBROOK. Mr. Speaker, reserving the right to object, I would direct a parliamentary inquiry to the Chair. I would raise a point of order against H.R. 17954, referred to by the chairman of the Post Office and Civil Service Committee, because my information is there was not a quorum present at the time that was reported.

The SPEAKER. The Chair will state that is not under consideration at this time. This is a Senate bill, another bill.

Mr. ASHBROOK. The Senate bill would be identical to H.R. 17954. Is that correct?

The SPEAKER. The gentleman can object to consideration, if he desires to do so.

Mr. UDALL. Mr. Speaker, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Speaker, I would hope that the gentleman would not object to this bill. This bill is a long-sought objective of the General Accounting Office, and in the long run is going to save the government a lot of money and is going to help a lot of innocent Federal employees. There has not been any objection to this bill. We had unanimous consent on both sides in the committee on the House bill. The Senate passed this bill and it could be enacted into law at this session.

The failure to have a quorum in the House committee was simply one of those things we run into in the closing days of the session. I would think, on the merits, the gentleman would have no objection to this.

The SPEAKER. Is there objection to the request of the gentleman from New York?

Mr. ASHBROOK. Mr. Speaker, further reserving the right to object, it is my understanding that executive agencies waive collections when the amount of the claim is less than \$500 under this procedure?

Mr. UDALL. That is correct, but in the long run this will save money.

What happens is that through no fault of the employee or of the Government an overpayment of a couple of hundred dollars will be made. The General Accounting Office has to investigate. Private bills frequently are introduced. We take the time of witnesses before the committee.

When there is no fraud and it is not the fault of the employee, this would allow the head of the executive agency, under regulations of the GAO, to waive the overpayment. We would save money.

Mr. ASHBROOK. Further reserving the right to object, Mr. Speaker, I would ask the gentleman from Arizona if this does not include general authority to apply to the future, as well as to past claims?

Mr. UDALL. Yes. The General Accounting Office spends thousands of man-hours a year on these things. This would give a general charter for the handling of

these cases year after year. I assure the gentleman we would save money.

Mr. ASHBROOK. With that assurance, Mr. Speaker, I withdraw my reservation.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 4120

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subchapter VIII of chapter 55 of title 5, United States Code, is amended by adding at the end thereof the following new section: "

"§ 5584. Claims for overpayment of pay

"(a) A claim of the United States against a person arising out of an erroneous payment of pay, on or after July 1, 1960, to an employee of an executive agency, the collection of which would be against equity and good conscience and not in the best interests of the United States, may be waived in whole or in part by—

"(1) the Comptroller General of the United States; or

"(2) the head of the executive agency when—

"(A) the claim is in an amount aggregating not more than \$500;

"(B) the claim is not the subject of an exception made by the Comptroller General in the account of any accountable official; and

"(C) the waiver is made in accordance with standards which the Comptroller General shall prescribe.

"(b) The Comptroller General or the head of the executive agency, as the case may be, may not exercise his authority under this section to waive any claim—

"(1) if, in his opinion, there exists, in connection with the claim, an indication of fraud, misrepresentation, fault, or lack of good faith on the part of the employee or any other person having an interest in obtaining a waiver of the claim; or

"(2) after the expiration of three years immediately following the date on which the erroneous payment of pay was discovered or three years immediately following the effective date of this section, whichever is later.

"(c) A person who has repaid to the United States all or part of the amount of a claim, with respect to which a waiver is granted under this section, is entitled, to the extent of the waiver, to refund, by the employing agency at the time of the erroneous payment, of the amount repaid to the United States, if he applies to that employing agency for that refund within two years following the effective date of the waiver. The employing agency shall pay that refund in accordance with this section.

"(d) In the audit and settlement of the accounts of any accountable official, full credit shall be given for any amounts with respect to which collection by the United States is waived under this section.

"(e) An erroneous payment, the collection of which is waived under this section, is deemed a valid payment for all purposes.

"(f) This section does not affect any authority under any other statute to litigate, settle, compromise, or waive any claim of the United States."

(b) The table of contents of subchapter VIII of chapter 55 of title 5, United States Code, is amended by inserting the following new item immediately below item 5583:

"5584. Claims for overpayment of pay."

Mr. DULSKI. It is the purpose of S. 4120 to authorize a systematic procedure for the Comptroller General of the United States, or the head of an execu-

tive agency, to waive the collection of claims of the United States arising out of erroneous payments of pay to employees of executive agencies.

The bill is identical to H.R. 17954. It is based on recommendations made by the administration and the General Accounting Office. It was reported unanimously by our committee, and I know of no objection to its favorable consideration.

S. 4120 has received the unanimous consideration of the Senate Post Office and Civil Service Commission, and passed the Senate unanimously.

The waiver of a claim of the United States, of course, will not involve the paying out of any additional moneys. However, additional cost will be involved when refunds are necessary in those cases where the employee has paid part of the claim back to the United States before the entire claim is waived. It is the belief of the Committee that the reduction in the amounts collected on the claims that may be waived, and the refunds, will be offset in a major part by a reduction in the administrative expense necessary to process the claims for collection, or for consideration under private relief legislation.

Mr. UDALL. Mr. Speaker, it is the purpose of S. 4120 to authorize a systematic procedure for the Comptroller General of the United States or the head of an executive agency to waive the collection of claims of the United States arising out of erroneous payments of pay to employees of executive agencies.

The bill is based on recommendations made by the administration and the General Accounting Office. It was reported unanimously by our committee and I know of no objection to its favorable consideration.

S. 4120, has received the unanimous consideration of the Senate Post Office and Civil Service Committee.

The waiver of a claim of the United States, of course, will not involve the paying out of any additional moneys. However, additional cost will be involved when refunds are necessary in those cases where the employee has paid part of the claim back to the United States before the entire claim is waived. It is the belief of the committee that the reduction in the amounts collected on the claims that may be waived, and the refunds, will be offset in a major part by a reduction in the administrative expense necessary to process the claims for collection or for consideration under private relief legislation.

Mr. Speaker, the provisions of existing law do not provide an adequate or satisfactory means of dealing with erroneous overpayments of pay to employees.

The general authority under 31, United States Code, 952, is not a waiver authority and may be utilized only where there is a lack of any present or prospective financial ability to pay.

Mr. Speaker, the reported bill proposes general legislation establishing a systematic procedure for the Comptroller General or the head of an executive agency to waive claims of the United

States arising out of erroneous payments of pay to an employee of an executive agency. The authority to waive is discretionary with the head of the agency or the Comptroller General and may not be exercised if there exists, in connection with the overpayment, an indication of fraud, misrepresentation, fault, or lack of good faith on the part of the employee or any person having an interest in obtaining a waiver of the claim.

The authority to waive will apply to a claim of the United States against a person arising out of an erroneous payment of pay on or after July 1, 1960, the collection of which would be against equity and good conscience and not in the best interest of the United States.

The authority of the head of an executive agency is subject to further limitations, which are:

The aggregate amount of the claim is not more than \$500.

The waiver can be made only in accordance with standards prescribed by the Comptroller General.

In those cases where a person has repaid to the United States all or part of a claim with respect to which a waiver is granted, he is entitled, to the extent of the waiver, to a refund of the amount repaid if he applies for the refund within 2 years following the effective date of the waiver.

The authority to waive may not be exercised after the expiration of 3 years immediately following the date on which the erroneous payment of pay was discovered, or 3 years immediately following the effective date of this legislation, whichever is later.

Mr. Speaker, as I have indicated, this legislation was reported unanimously by our committee and has the full support of the administration. I urge favorable consideration of S. 4120 by the House today.

RELIEF OF ACCOUNTABLE OFFICERS UNDER S. 4120

It is felt that this proposal contains all the safeguards we could possibly include so as to prohibit the use of this authority in cases where the accountable officer acts in an irresponsible or negligent manner.

Subsection (b) of the new section 5584, on page 5 beginning with line 21 of the House-reported bill, prohibits the waiver of a claim when there exists any indication of fraud, misrepresentation, fault, or lack of good faith on the part of any person having an interest in obtaining the waiver. This, of course, would include the accountable officers.

Most of the cases that have been called to the attention of the Committee, which could be waived under this authority, involve situations where payments were made before understandable regulations were issued, or where the paying official had no reason to doubt the validity of the payment prior to an official ruling by the Comptroller General.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 17954) was laid on the table.

GENERAL LEAVE TO EXTEND ON S. 1507, H.R. 12881, AND S. 4120

Mr. DULSKI. Mr. Speaker, I ask unanimous consent that all Members may have permission to extend their remarks on the three bills just considered, S. 1507, H.R. 12881, and S. 4120.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

CONFERENCE REPORT ON H.R. 18707, DEPARTMENT OF DEFENSE AP- PROPRIATIONS, 1969

Mr. MAHON. Mr. Speaker, I call up the conference report on the bill (H.R. 18707) making appropriations for the Department of Defense for the fiscal year ending June 30, 1969, and for other purposes, and ask unanimous consent that the statement of the managers on the part of the House be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of October 10, 1968.)

The SPEAKER. The gentleman from Texas is recognized for 1 hour.

Mr. MAHON. Mr. Speaker, I yield myself such time as I may consume.

(Mr. MAHON asked and was given permission to revise and extend his remarks and to include certain tabular material.)

Mr. MAHON. Mr. Speaker, the Members are familiar with the broad outlines of the Defense appropriation bill. It passed the House on September 12. It passed the other body on October 3.

The authorization bill upon which much of the appropriation bill is based passed the Senate on April 19 and the House on July 11. The conference report thereon was agreed to on September 10 in the House and September 11 in the Senate.

The Defense appropriations conference report before us represents final congressional action on the largest single appropriation bill in history. In spite of its size, I wish to report that the total of \$71,869,828,000 is below the budget of the President by \$5,204,172,000. It is below the Senate bill by \$17,065,000 and below the House bill by \$369,872,000.

POLARIS-POSEIDON CONVERSIONS

The House conferees are not happy with all of the actions agreed upon. In the "Shipbuilding and conversion, Navy" appropriation, the agreement provides for the funding of only two conversions of submarines from Polaris missiles to Poseidon missiles instead of six as provided by the House and the budget. Funds are previously provided for the first two conversions in the fiscal year 1968 program. Thus funds are now available for a total of four such conversions. The managers on the part of the House were not in accord with the position of the other body, the conferees of the other body feeling that no further con-

versions should be undertaken until the Poseidon missile and its warhead were more extensively tested.

In other matters, the statement of the managers adequately expresses the full feeling of the conferees. A few additional references may be in order.

MILITARY PERSONNEL

Reductions in military personnel appropriations of \$113,400,000, as proposed by the other body, were agreed to in recognition of the effect of the Revenue and Expenditure Control Act of 1968, and with full knowledge that there will be a supplemental amount required to finance the pay increase which was effective July 1, 1968.

RESEARCH GRANTS

As to the general provisions, the elimination of former section 537 with respect to indirect costs on research grants

should not be interpreted by the Department of Defense to be a license to permit the unbridled dispensation of funds in this area. Pending the results of the studies called for and the enactment of further legislative expression on the matter, it would be prudent administration to seek to adhere to the intent expressed in the statement of the managers.

EXPENDITURE EFFECT

Defense expenditures, being so vast, are difficult of analysis outside of the Department, and somewhat difficult of projection even within the Department. The committee had estimated that the effect of its recommended reductions of \$4.8 billion in new budget authority—which reductions were accepted by the House—would have been about \$1.7 billion in expenditures. It was estimated

that expenditure reductions resulting from the action of the other body, in reducing new appropriations by \$5.2 billion, would have been \$1.81 billion. The conference agreement, being slightly below the bill as passed by the other body, should result in expenditure reductions estimated at \$1.85 billion.

ADDITIONAL INFORMATION REGARDING DEFENSE

Mr. Speaker, our military situation was discussed in considerable detail in the RECORD of September 11. I call special attention to the remarks which I made on that date and which appear in the temporary RECORD of September 11 beginning at page H8505.

SUMMARY OF APPROPRIATION

Mr. Speaker, I will insert in the RECORD the usual table of estimates and comparisons in regard to the programs which are financed under this bill.

DEFENSE APPROPRIATION BILL, 1969, SUMMARY OF APPROPRIATIONS

[In thousands of dollars]

Item	1968 appropriation (NOA)	1969 budget estimate (NOA)	Passed House	Passed Senate	Conference action	Conference action compared with—			Senate
						1968 appropriation	Budget estimate	House	
Title I, Military personnel	\$22,091,672	\$23,014,000	\$22,685,000	\$22,571,600	\$22,571,600	+\$479,928	-\$442,400	-\$113,400	
Title II, Operation and maintenance	19,189,090	22,787,000	21,800,000	21,765,000	21,765,000	+2,575,910	-1,022,000	-35,000	
Title III, Procurement	22,000,800	23,254,000	20,299,000	19,962,900	19,981,900	-2,018,900	-3,272,100	-317,100	+\$19,000
Title IV, Research, development, test and evaluation	7,108,600	8,066,200	7,455,700	7,587,393	7,551,382	+442,728	-454,872	+95,628	-36,065
Special foreign currency program	11,200	12,800				-11,200	-12,800		
Emergency fund, Southeast Asia	3,750,950					-3,750,950			
Total	74,152,312	77,074,000	72,239,700	71,886,893	71,869,828	-2,282,484	-5,204,172	-369,872	-17,065
Distribution by organizational component:									
Army	22,698,560	24,520,564	23,265,364	23,221,494	23,215,429	+516,869	-1,305,135	-49,935	-6,065
Navy	19,863,371	22,651,000	20,656,300	20,879,939	20,368,939	+505,568	-2,282,061	-287,361	-11,000
Air Force	24,019,115	25,759,100	24,403,300	24,320,724	24,320,724	+301,609	-1,438,376	-82,576	
Defense agencies/OSD	3,820,316	4,143,336	3,911,736	3,964,736	3,964,736	+144,420	-178,600	+50,000	
Emergency fund, Southeast Asia	3,750,950					-3,750,950			
Total	74,152,312	77,074,000	72,239,700	71,886,893	71,869,828	-2,282,484	-5,204,172	-369,872	-17,065

As all of us know, this is the largest single bill ever to pass the Congress. As I think all of us also know, we have cut the President's budget to a greater extent this year in appropriations than has ever taken place in the history of our country. On the other hand, we have financed more programs through bills which have passed the Congress this year than at any other time in the history of our country.

Mr. Speaker, I now yield to the gentleman from South Carolina, the chairman of the Committee on Armed Services [Mr. RIVERS].

Mr. RIVERS. Mr. Speaker, this question in no wise deprecates the industry or the dedication of the great Committee on Appropriations, and the fine work that they have done in the manifold tasks assigned to this committee and its great chairman. However, I am disturbed about the reduction in the conversion program of the Polaris missile submarine in making it ready for the follow-on known as the Poseidon missile. I know the feeling of the other body, but we have very few new weapons in our inventory. The former Secretary of Defense does not have much to show for his tenure in office. This is one of the few new things that we have. I am sure it is going to work, as have the other missiles in this family of weapons.

Mr. Speaker, I wish to inquire of the great chairman about this \$200 million

reduction and whether or not it causes concern to him as chairman of his great committee. It certainly causes me concern. Also I want to know whether or not this will delay the orderly process of making ready our submarines for the advent of this missile.

Mr. MAHON. Mr. Speaker, as the gentleman has stated, the Poseidon missile for our missile-firing submarines is the follow-on to the Polaris missile.

The managers on the part of the House argued at great length in favor of the Budget position and the House position that we should provide for the conversion of six Polaris submarines to accommodate the Poseidon missile. However, the other body refused to yield. What this bill provides for is for two conversions. With the two funded last year, that makes a total of four out of a Polaris fleet of 41 vessels. The other body took the position that any delay which might be brought about its action was justifiable under all the circumstances. The other body took their position, even though the cost might be greater as a result of the modification in the conversion program which had been laid out, and we were not able to convince the other body that we ought to provide for all six conversions. So we reluctantly yielded to the other body on the matter.

But we reaffirm our conclusion that the Poseidon missile is a very large step forward in weaponry and we do not with-

draw our support of it. We do provide for the conversion of these two additional submarines and this was the best we could do.

When further tests are made of the Poseidon missile and its warhead, it may be that the doubts which have been raised will disappear and we can move forward more rapidly. I believe the program will move along, but it is not moving along as rapidly as some of us would like.

Mr. Speaker, I yield to the gentleman from California [Mr. LIPSCOMB], the ranking minority member on the committee, who is very well versed in this particular item.

(Mr. LIPSCOMB asked and was given permission to revise and extend his remarks.)

Mr. LIPSCOMB. I thank the chairman of the committee for yielding to me at this time.

Mr. Speaker, I would like to add that our committee is concerned, just as the distinguished chairman of the Committee on Armed Services, the gentleman from South Carolina, is concerned about this program. But we took further action beyond that which the chairman of the Committee on Appropriations mentioned. We added \$66 million above the Senate amount in order to meet the program they recommend. The total fund provided for the program should be sufficient to maintain the integrity of the



Public Law 90-616
90th Congress, S. 4120
October 21, 1968

An Act

82 STAT. 1212

To amend title 5, United States Code, to authorize the waiver, in certain cases, of claims of the United States arising out of erroneous payments of pay to employees of the executive agencies, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subchapter VIII of chapter 55 of title 5, United States Code, is amended by adding at the end thereof the following new section:

“§ 5584. Claims for overpayment of pay

“(a) A claim of the United States against a person arising out of an erroneous payment of pay, on or after July 1, 1960, to an employee of an executive agency, the collection of which would be against equity and good conscience and not in the best interests of the United States, may be waived in whole or in part by—

“(1) the Comptroller General of the United States; or

“(2) the head of the executive agency when—

“(A) the claim is in an amount aggregating not more than \$500;

“(B) the claim is not the subject of an exception made by the Comptroller General in the account of any accountable official; and

“(C) the waiver is made in accordance with standards which the Comptroller General shall prescribe.

“(b) The Comptroller General or the head of the executive agency, as the case may be, may not exercise his authority under this section to waive any claim—

“(1) if, in his opinion, there exists, in connection with the claim, an indication of fraud, misrepresentation, fault, or lack of good faith on the part of the employee or any other person having an interest in obtaining a waiver of the claim; or

“(2) after the expiration of three years immediately following the date on which the erroneous payment of pay was discovered or three years immediately following the effective date of this section, whichever is later.

“(c) A person who has repaid to the United States all or part of the amount of a claim, with respect to which a waiver is granted under this section, is entitled, to the extent of the waiver, to refund, by the employing agency at the time of the erroneous payment, of the amount repaid to the United States, if he applies to that employing agency for that refund within two years following the effective date of the waiver. The employing agency shall pay that refund in accordance with this section.

“(d) In the audit and settlement of the accounts of any accountable official, full credit shall be given for any amounts with respect to which collection by the United States is waived under this section.

“(e) An erroneous payment, the collection of which is waived under this section, is deemed a valid payment for all purposes.

“(f) This section does not affect any authority under any other statute to litigate, settle, compromise, or waive any claim of the United States.”.

Federal employees.
U. S. claims for
overpayment,
waiver.
80 Stat. 495.
5 USC 5581-
5583.

Time limitation.

Refunds.

Savings
provision.

82 STAT. 1212

80 Stat. 495.
5 USC 5581-
5583.

(b) The table of contents of subchapter VIII of chapter 55 of title 5, United States Code, is amended by inserting the following new item immediately below item 5583:

"5584. Claims for overpayment of pay."

Approved October 21, 1968.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 1863 accompanying H. R. 17954 (Comm. on Post Office and Civil Service).

SENATE REPORT No. 1607 (Comm. on Post Office and Civil Service).

CONGRESSIONAL RECORD, Vol. 114 (1968):

Oct. 4: Considered and passed Senate.

Oct. 11: Considered and passed House in lieu of H. R. 17954.

